

2:22-cv-00509-SRB - November 15, 2023 P.M.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

\_\_\_\_\_

Mi Familia Vota, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	2:22-cv-00509-SRB
	)	
Adrian Fontes, et al.,	)	
	)	Phoenix, Arizona
Defendants.	)	November 15, 2023
_____	)	1:05 P.M.

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BENCH TRIAL - DAY 7 P.M.

(Pages 1677 through 1842)

Official Court Reporter:  
**Elaine Cropper, RDR, CRR, CCP**  
Sandra Day O'Connor U.S. Courthouse  
401 West Washington Street  
Suite 312, SPC 35  
Phoenix, Arizona 85003-2150  
(602) 322-7245

Proceedings Reported by Stenographic Court Reporter  
Transcript Prepared by Computer-Aided Transcription

United States District Court

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**?APPEARANCES**

For Plaintiff United States of America:

**RICHARD DELLHEIM, ESQ.**

U.S. DEPARTMENT OF JUSTICE-CIVIL RIGHT DIVISION,  
VOTING SECTION  
950 Pennsylvania Avenue NW  
Washington, D.C. 50530

For Plaintiff ADRD Action, Arizona Students' Association,  
League of United Latin American Citizens Arizona, Living  
United for Change in Arizona::

**DANIELLE MARIE LANG, ESQ.**

**HAYDEN JOHNSON, ESQ.**

**ROBERT BRENT FERGUSON, ESQ.**

**JONATHAN DIAZ, ESQ.**

CAMPAIGN LEGAL CENTER  
1101 14th Street NW, Suite 400  
Washington, D.C. 20005

For Plaintiff Arizona Asian American Native Hawaiian and  
Pacific Islander for Equity Coalition:

**NIYATI SHAH, ESQ.**

ASIAN AMERICANS ADVANCING JUSTICE  
1620 L Street NW, Suite 1050  
Washington, D.C. 20036

**AMIT MAKKER, ESQ.**

**EVAN OMI, ESQ.**

**SADIK HUSENY, ESQ.**

LATHAM & WATKINS,  
505 Montgomery Street, Suite 2000  
San Francisco, California 94111

**NEETHU PUTTA, ESQ.**

LATHAM & WATKINS, L.L.P.  
1271 Avenue of the Americas  
New York, New York 10020

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**APPEARANCES (Continued)**

For Plaintiff Arizona Democratic Party, Democratic National Committee:

**DANIEL S. VOLCHOK, ESQ.**  
**CHRISTOPHER E. BABBITT, ESQ.**  
**BRITANY RILEY-SWANBECK, ESQ.**  
WILMER CUTLER PICKERING HALE & DORR, L.L.P.  
2100 Pennsylvania Avenue NW  
Washington, D.C. 20037

For Plaintiff Poder Latinx:

**JOHN A. FREEDMAN, ESQ.**  
**ERICA ELAINE MCCABE, ESQ.**  
ARNOLD & PORTER KAYE SCHOLER, L.L.P.  
601 Massachusetts Avenue NW, Suite 100  
Washington, D.C. 20001

**JONATHAN SHERMAN, ESQ.**  
**MICHELLE KANTER COHEN, ESQ.**  
FAIR ELECTIONS CENTER  
1825 K Street NW, Suite 701  
Washington, D.C. 20006

For Plaintiff Voto Latino, Mi Familia Vota:

**CHRISTOPHER DODGE, ESQ.**  
**ELISABETH C. FROST, ESQ.**  
ELIAS LAW GROUP, L.L.P.  
250 Massachusetts Avenue NW, Suite 400  
Washington, D.C. 20001

**DANIEL ABRAHAM ARELLANO, ESQ.**  
Herrera Arellano, L.L.P.  
1001 North Central Avenue, Suite 404  
Phoenix, Arizona 85004

For Plaintiff Promise Arizona, Southwest Voter Registration Education Project:

**ERNEST ISRAEL HERRERA, ESQ.**  
**ERIKA CERVANTES, ESQ.**  
MALDEF  
634 Spring Street, 11th Floor  
Los Angeles, California 90014

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**APPEARANCES (Continued)**

For Intervenor-Defendants State of Arizona, Kris Mayes,  
Jennifer Toth:

**JOSHUA MICHAEL WHITAKER, ESQ.**  
**TIMOTHY E. HORLEY, ESQ.**  
**KATHRYN E. BOUGHTON, ESQ.**  
ARIZONA ATTORNEY GENERAL'S OFFICE  
2005 N. Central Avenue  
Phoenix, Arizona 85004  
Phoenix, AZ 85004

For Intervenor-Defendant Ben Toma:

**HANNAH HATCH PORTER, ESQ**  
GALLAGHER & KENNEDY, P.A.  
2575 E. Camelback Road, Suite 810  
Phoenix, Arizona 85016-9225

For Defendant-Intervenor Republican National Committee:

**KORY A. LANGHOFER, ESQ.**  
**THOMAS J. BASILE, ESQ.**  
STATECRAFT, P.L.L.C.  
649 North 4th Avenue, Suite B  
Phoenix, Arizona 85003

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**I N D E X****TESTIMONY**

<b>WITNESS</b>	<b>Direct</b>	<b>Cross</b>	<b>Redirect</b>	<b>Recross</b>
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Defense Witnesses

TODD LAWSON	1684 1697	1698		
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MARK HOEKSTRA, PH.D.	1713	1767 1804 1827		
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**E X H I B I T S**

Number		Ident	Rec'd
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105	6/19/2023 Defendant Attorney General Kristin K. Mayes' Response to Consolidated Plaintiffs' First Set of Interrogatories [Depo Ex. 212]	1703	
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106	8/24/2023 Defendant Attorney General Kristin K.	1705	
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292	4/4/2023 Arizona Attorney General's Office Criminal Division - Fraud & Special Prosecutions Section list of cases prosecuted by the Attorney General's Office since 2010 [AG000349 - 56] [Depo Ex. 224]	1688	
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328	Expert Report of T. Burch	1827	
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332	Exhibit A to 10/11/2023 Declaration of M. McDonald	1825	
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338	Table 5. Statewide Surname Matched Race and Ethnicity Statistics for Select Populations	1808	
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526	Weaver, Vesla M., and Amy E. Lerman. 2010.	1823	
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**E X H I B I T S (Continued)**

Number		Ident	Rec'd
548	Mark Hoekstra, Strict Voter Identification Laws, Turnout, and Election Outcomes. Cato Institute. Research Briefs in Economic Policy.	1838	
900	Hoekstra Report in Response to Burch	1827	
901	Hoekstra Report in Response to McDonald	1804	
902	Hoekstra Report in Response to Minnite	1774	
907	Hoekstra Report in Response to McDonald Table 1	1756	1760
908	Hoekstra Report in Response to McDonald Table 2	1757	1760
909	Hoekstra Report in Response to McDonald Table 3	1759	1760
944	Targeting in Medicaid: The costs and enrollment effects of Medicaid's citizenship documentation requirement, Benjamin D. Sommers [Hoekstra 394]	1821	
948	Photo identification laws and perceptions of electoral fraud, Endres & Panagopoulos [Hoekstra 388]	1797	
950	Grimmer, Justin and Jesse Yoder. 2022. "The Durable Differential Deterrent Effects of Strict Photo Identification Laws." Political Science Research and Methods 10.	1811	
951	The Effects of Voter ID Notification on Voter Turnout, Citrin et al. [Hoekstra 392]	1815	
952	Strict ID Laws Don't Stop Voters: Evidence From A	1812	

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**E X H I B I T S** (Continued)

Number	Ident	Rec'd
973 American Community Survey	1761	1762

**RECESSES**

	Page	Line
(Recess at 2:49; resumed at 3:06.)	1760	17

TODD LAWSON - Direct

P R O C E E D I N G S

(Court was called to order by the courtroom deputy.)

(Proceedings begin at 1:04.)

THE COURT: Good afternoon. Please sit down.

I understand that defendants want to interrupt  
Dr. Hoekstra's testimony with another witness.

01:04:04

MR. WHITAKER: Josh Whitaker for the State and  
Attorney General, Your Honor. Yes. Todd Lawson, a prosecutor  
with the Attorney General's Office, has some limited  
availability today and we would like to try to squeeze him in  
to keep things expedited.

01:04:24

THE COURT: You may call him.

MR. WHITAKER: The defense calls Todd Lawson.

COURTROOM DEPUTY: Raise your right hand for me.

(TODD LAWSON, a witness herein, was duly sworn or  
affirmed.)

01:04:46

COURTROOM DEPUTY: Thank you. And could you state  
your name and spell your last name for the record?

THE WITNESS: Todd Lawson. L-A-W-S-O-N.

COURTROOM DEPUTY: Thank you. And you can go ahead  
and have a seat.

01:04:59

THE COURT: Please proceed, Mr. Whitaker.

**DIRECT EXAMINATION**

BY MR. WHITAKER:

Q. Good afternoon, Mr. Lawson.

01:05:20

United States District Court

TODD LAWSON - Direct

1	A.	Good afternoon.	01:05:21
2	Q.	Where are you employed?	
3	A.	I work for the Arizona Attorney General's Office.	
4	Q.	And what your position?	
5	A.	I am a senior litigation counsel assigned to the Criminal	01:05:25
6		Division.	
7	Q.	Do you prosecute cases for the office?	
8	A.	I do.	
9	Q.	How long have you prosecuted cases for the office?	
10	A.	I became a Special Assistant Attorney General assigned to	01:05:35
11		prosecute cases in May of 2000.	
12		THE COURT: Could I ask you to speak more directly	
13		into the microphone, please.	
14		THE WITNESS: Yes, Your Honor. Is that better?	
15		THE COURT: Yes. It is.	01:05:47
16		MR. WHITAKER: Your Honor, would you like the witness	
17		to repeat that last answer?	
18		THE COURT: No. I could hear him. I was concerned	
19		about the people in the back of the courtroom.	
20		MR. WHITAKER: All right.	01:05:59
21		BY MR. WHITAKER:	
22	Q.	Mr. Lawson, have you prosecuted crimes related to voting	
23		laws?	
24	A.	Yes, sir.	
25	Q.	Is that a major focus of your work?	01:06:05

United States District Court

TODD LAWSON - Direct

1 A. For a couple of years it was the primary thing I was paid  
2 to do were election-related offenses, yes.

01:06:07

3 Q. And what years were those?

4 A. Those began in October of 2019 through the end of this  
5 current fiscal year so June 30 of this year.

01:06:22

6 Q. Had you prosecuted crimes related to voting laws before  
7 that time?

8 A. I had.

9 Q. Can you explain a little bit about your experience there?

10 A. So I became a prosecutor with the agency in 2000. There  
11 are a number of various case loads and expertise that people  
12 build up over the years. In 2010 there became a need for  
13 people to investigate offenses under Title XVI and I started  
14 doing those cases around that time.

01:06:33

15 Q. Is there any other prosecutor in the office, to your  
16 knowledge, who focuses on voting law prosecutions?

01:06:54

17 A. No.

18 Q. Are you familiar with the offices Election Integrity Unit?

19 A. Yes. I was assigned to that unit for, again, just over  
20 three years.

01:07:11

21 Q. And were you the only prosecutor assigned to that unit?

22 A. I was, yes.

23 Q. Can you generally describe your understanding of why that  
24 unit was created?

25 A. The legislature created the unit to investigate offenses

01:07:24

United States District Court

TODD LAWSON - Direct

1 related to -- actually, not just offenses but any sorts of  
2 questions or allegations related to conduct of elections.

3 Q. And have there been investigators in that unit?

4 A. Yes. The unit as it was constituted included myself as a  
5 prosecutor and an assigned investigator.

6 Q. We heard testimony earlier today from an expert witness  
7 that voter fraud in Arizona is rare. Would you agree with that  
8 characterization?

9 A. Yes.

10 Q. We heard testimony from that same expert that voter fraud  
11 with non-citizens in Arizona is extremely rare. Would you  
12 agree with that assessment?

13 A. Yes.

14 Q. Has the Attorney General's Office, to your knowledge,  
15 published online a list of voting related prosecutions in the  
16 past several years?

17 A. Yes, they have.

18 Q. Do you recall roughly when that list first started to  
19 become published?

20 A. I began preparing a list which is for some points in this  
21 time frame was the list and other times it was a version of  
22 that list. I began compiling that document in earliest 2013 --  
23 excuse me latest 2013, perhaps as early as 2011.

24 Q. And that was -- you anticipated my next question. Are you  
25 the primary drafter of that document?

United States District Court

TODD LAWSON - Direct

1 A. Yes. I have been the person to maintain it over the  
2 years, yes.

3 MR. WHITAKER: All right. Can we pull up Plaintiffs'  
4 Exhibit 292?

5 BY MR. WHITAKER:

6 Q. Is this the document you were referring to?

7 A. I believe it is. I would know by the last page where  
8 there's a number on it, a tracking number. That looks like my  
9 document, yes.

10 Q. Can we turn to page eight of the document?

11 A. Yes. That is a version -- so the way our office works is  
12 there's a unique number assigned to every document. Here  
13 that's the number begins 499. The version number in this case  
14 is 23 and there's a date after it which shows the date of this  
15 version. I prepared this one, yes.

16 Q. Okay. And is this, to your knowledge, the version of the  
17 document that's currently on the office's website?

18 A. That's correct. I haven't had the opportunity to update  
19 it since April.

20 Q. All right.

21 MR. WHITAKER: Can we go back to page one?

22 BY MR. WHITAKER:

23 Q. The top of this page there's a disclaimer that says these  
24 are only cases prosecuted by the Arizona Attorney General's  
25 Office. Are there other agencies in Arizona with authority to

United States District Court

TODD LAWSON - Direct

1 prosecute voting-related crimes?

01:10:09

2 A. Yes.

3 Q. And what are those agencies, to your knowledge?

4 A. The U.S. Attorney's Office could pursue voting-related  
5 crimes as well any County Attorney who had an offense in their  
6 jurisdiction.

01:10:18

7 Q. Part A of this document says prosecutions related to  
8 illegal voting by individuals since 2010 and I'll represent to  
9 you that a few pages later part B says prosecutions related to  
10 elections since 2010. Can you briefly explain that  
11 distinction?

01:10:37

12 A. There were some iterations of this document where those  
13 two things were commingled and people were counting  
14 prosecutions of candidates for things like petition fraud under  
15 the umbrella of saying we had prosecuted those people for  
16 voting legally when we hadn't. And so, again, my case load  
17 included anything related to Title XVI, which included other  
18 offenses that aren't specifically involving voting, and so I  
19 divided this list to make it a little more clear.

01:10:53

20 Q. Let's go to page five of the document. So page five  
21 indicates that the numbers of prosecutions related to illegal  
22 voting go up to number 38; right?

01:11:17

23 A. That's correct. That was accurate as of the date of the  
24 document.

25 Q. All right. And I'm not going to go through all 38

01:11:31

United States District Court

TODD LAWSON - Direct

1 definitely but what's the most common type of illegal voting  
2 case that you have prosecuted?

01:11:36

3 A. Double voting. People voting in more than one  
4 jurisdiction on the same date.

5 Q. Is it fair to say that none of the numbered entries one  
6 through 38 involve a charge of a non-citizen voting?

01:11:51

7 A. That's accurate. That's correct.

8 Q. Now, also on that page there's a bullet under Additional  
9 Notes that says, "Four additional cases have been charged and  
10 are sealed pending the arrest of the defendants."

01:12:10

11 What does that mean?

12 A. By way of background, there are cases that are charged in  
13 public, meaning the individual has been served with either a  
14 summons or has been served with an arrest warrant so then they  
15 know the charges pending against them. An Arizona criminal  
16 procedure when that hasn't occurred, the charges against that  
17 person are sealed.

01:12:29

18 I know those cases exist and so I am disclosing that  
19 here that there are four cases that exist but I'm not at  
20 liberty to provide case numbers, defendant names, jurisdictions  
21 and the charges that are involved and so that's what that point  
22 means.

01:12:45

23 THE COURT: Since you last made the report, have any  
24 of these four become public?

25 THE WITNESS: One has but it is not a non-citizen

01:13:02

United States District Court

TODD LAWSON - Direct

1 case.

01:13:05

2 BY MR. WHITAKER:

3 Q. And that was going to be one of my questions. Is any of  
4 these four cases a case involving a charge of a non-citizen  
5 voting?

01:13:13

6 A. One is and then in addition, while we were preparing for  
7 this case, for the deposition in this case, I learned of  
8 another case that involved a non-citizen that was charged by  
9 another attorney, so it's not a case that appeared on this  
10 tracking chart.

01:13:28

11 So as I sit here today, I'm aware of two cases that  
12 our agency has involving non-citizens who are alleged to have  
13 voted.

14 THE COURT: Are either of them public?

15 THE WITNESS: Neither of them are and, Your Honor,  
16 what we did prior to the deposition is, we reviewed E.R. 3.8,  
17 the state grand jury secrecy statute, which is 13-2812, and  
18 determined that we were prepared to provide some limited  
19 background information about those cases such that doesn't  
20 identify the person targeted and charged with any specificity  
21 so we're not holding them up to public scorn without them  
22 having been served, and also that we're not going to be able to  
23 identify them such that a person could go and find that person  
24 and say, "You were charged. They were testifying about your  
25 case in court today."

01:13:42

01:14:03

01:14:22

United States District Court

TODD LAWSON - Direct

1           So we did, during the course of the deposition,  
2           provide some limited information about that -- them and I'm  
3           prepared to provide that as well here today.

4           BY MR. WHITAKER:

5           Q.    With the Court's permission, could you provide general  
6           information about those two cases?

7           A.    Sure. The one that actually is among those four, the one  
8           that I charged was an individual who, to start the time line  
9           back at the beginning, the individual appeared to have entered  
10          the country with the permission of friends or distant relatives  
11          who had had a child die and that child had died in Mexico. The  
12          child had been born in the U.S. and had valid claim to U.S.  
13          citizenship. But because they had died outside the United  
14          States, their death hadn't been recorded. So there was nothing  
15          that indicated that that person was no longer alive in the U.S.  
16          database.

17          Our target presented themselves at the U.S. border  
18          identifying themselves as this deceased child and was allowed  
19          essentially to enter and assume that person's the identity and  
20          they did so with the permission of the family member whose  
21          child it was. They then proceeded to live in the United States  
22          for a number of years and while they lived here, they did vote  
23          in I believe it's at least five different General Elections.  
24          Then at some point they became cross-wise with the family that  
25          had sponsored them -- sponsored him into the United States.

United States District Court

TODD LAWSON - Direct

1 That family then reported him for a criminal violation and he  
2 became a fugitive.

01:16:03

3 At some point during his time being a fugitive he was  
4 caught by a local police department in southern Arizona and  
5 asked to be removed and identified himself with his real name  
6 and real information and said he was a Mexican national and  
7 instead of being here, he wanted to be removed back to Mexico,  
8 please.

01:16:17

9 In the course of the search incident to that arrest,  
10 they found his voter registration card and other information  
11 relevant to his use of the other identity. That was then  
12 reported to us and we conducted an investigation which was  
13 primarily focused on Title XVI violations.

01:16:36

14 That case was presented and is currently on warrant  
15 status.

01:16:58

16 Q. All right. And then you mentioned two cases. Can you  
17 give just a general -- without violating any ethical  
18 obligations you have, a general summary of the second case  
19 you're aware of?

20 A. The second case involves an individual who was  
21 investigated for fraud in the AHCCCS, Arizona Health Care Cost  
22 Containment System, providing medical benefits. There was an  
23 allegation that a person who had obtained those benefits had  
24 done that fraudulently because they were not a U.S. citizen.

01:17:10

25 In the course of that investigation, they did contact

01:17:32

United States District Court

TODD LAWSON - Direct

1 the person and learn that that person was registered to vote. 01:17:36

2 And when that case was filed, it was filed primarily as a fraud  
3 and benefits case but they also added a charge that related to  
4 the illegal registration by that person. That case is also in  
5 warrant status. 01:17:54

6 Q. And to your knowledge, neither of those cases has resulted  
7 in a conviction?

8 A. That's correct.

9 THE COURT: In the second case, was there further  
10 investigation as to whether or not the person had actually  
11 voted or was just registered to vote? 01:18:07

12 THE WITNESS: I cannot speak to that specifically,  
13 Your Honor. I just know that the primary focus of the case was  
14 the benefits fraud and the Title XVI offense was essentially an  
15 additional charge that was added later in the process. 01:18:21

16 BY MR. WHITAKER:

17 Q. I want to switch gears just a little bit. Are you aware  
18 of a statute that criminalizes what is called false  
19 registration in Arizona?

20 A. Yes. I believe you're referring to 16-182. I'm familiar  
21 with it. 01:18:40

22 Q. Yes. Does that statute require a level of intent on the  
23 part of the alleged perpetrator?

24 A. The language in it is that the person not knowing that  
25 they are -- or knowing that they are able to vote -- or able to 01:18:58

United States District Court

TODD LAWSON - Direct

1 register. So there's a subjective element to it. I think I'm  
2 quoting it correctly.

3 I don't like to quote the law without it in front of  
4 me and I'm here on the stand so I'm at a loss.

5 Q. Do you know whether the statute requires that a person  
6 convicted under that law must have known that they are not  
7 eligible to register?

8 THE COURT: You know what, rather than asking him to  
9 tell us what the statute says, if it's of any importance, you  
10 can just put it in your findings and conclusions and I'll make  
11 sure that that is what the statute says.

12 MR. WHITAKER: That makes sense, Your Honor. Thank  
13 you.

14 BY MR. WHITAKER:

15 Q. More generally, what is the standard you use when deciding  
16 whether to charge a case?

17 A. The prosecuting standard used by our agency is reasonable  
18 likelihood of conviction. It means based on the evaluation of  
19 our agency, that if the matter was presented to a trial jury,  
20 that it is likely that that jury would return a guilty verdict  
21 on the charges to the beyond a reasonable doubt standard.

22 Q. Have there been times where there was an allegation that  
23 someone voted while ineligible but you didn't think there was  
24 enough evidence to prosecute that case?

25 A. Yes.

United States District Court

TODD LAWSON - Direct

1 THE COURT: Did any of those instances involve  
2 non-citizen voting as opposed to other ineligibility?

01:20:33

3 THE WITNESS: The one example that came readily to  
4 mind while I was preparing here today is, we did have an  
5 allegation that involved a person who voted from Israel. And  
6 the allegation was that that was a non-citizen voting in the  
7 election.

01:20:47

8 When we did the research, the Investigation Section  
9 did their research, the person was a U.S. citizen who was  
10 simply residing in Israel temporarily. They voted through the  
11 UOCAVA provisions of federal law and they are allowed to do  
12 that and so they legally cast a vote.

01:21:03

13 THE COURT: So your conclusion wasn't that there  
14 wasn't a substantial likelihood conviction; your conclusion was  
15 there was no crime?

01:21:20

16 THE WITNESS: There was no crime, that's correct.

17 BY MR. WHITAKER:

18 Q. To your knowledge, have there been not specific  
19 allegations of crimes but general complaints from members of  
20 the public expressing concern that a lack of a proof of  
21 citizenship requirement could allow non-citizens to vote?

01:21:34

22 A. Yes.

23 Q. Those are not things you would prosecute; right?

24 A. That's correct. In terms of -- I would need a specific  
25 else allegation in order to pursue something like that.

01:21:55

United States District Court

TODD LAWSON - Direct

1 Q. You mentioned earlier that the most common type of case 01:22:04  
2 you've prosecuted is double voting. Compared with that kind of  
3 a case, would a non-citizen voting case be, in your opinion,  
4 easier to detect, harder to detect, or about the same?

5 MR. DODGE: Objection. Speculation. Legal 01:22:22  
6 conclusion.

7 THE COURT: Sustained.

8 BY MR. WHITAKER:

9 Q. Then that's all the questions I have for you. Thank you.

10 A. Thank you. 01:22:29

11 THE COURT: Any other direct questions for this  
12 witness.

13 **DIRECT EXAMINATION**

14 BY MR. LANGHOFER:

15 Q. Just one. Good afternoon, Mr. Lawson. You said that the 01:22:40  
16 table -- well, while I'm here, I suppose we should move the  
17 exhibit into evidence. I think it was 292.

18 MR. DODGE: I believe it's already been admitted.

19 BY MR. LANGHOFER:

20 Q. Sir, you said the table was current as of April 4 of this 01:22:57  
21 year. Are there any updates to that table that concern  
22 non-citizen voting at that time that you just haven't entered?

23 A. No, sir.

24 Q. Thank you.

25 THE COURT: Mr. Dodge, cross? 01:23:13

TODD LAWSON - Cross

MR. DODGE: Thank you, Your Honor.

01:23:15

**CROSS - EXAMINATION**

BY MR. DODGE:

Q. Good to see you again. I need to re-create some of the questions from our deposition but Mr. Whitaker got to a fair number of them so I'm hoping we can make it quick?

01:23:22

MR. DODGE: Can we pull up PX 292?

BY MR. DODGE:

Q. You created this list around 2011; is that right?

A. Sometime back that far. It was a long time ago. There have been many versions of it.

01:23:38

Q. And you're the individual responsible for maintaining this list in your office?

A. That's correct.

Q. And it covers prosecutions going back to the 2010 election cycle?

01:23:47

A. I believe actually the first cases there may be 2008 election cycle cases that just took us some time to investigate and prosecute.

Q. I appreciate the clarification. At least with respect to public information, this list is comprehensive with respect to your office's prosecutions going back to that time?

01:23:59

A. I hate to say comprehensive. It is what I'm aware of and this is what I'm assigned; but as I discovered in the prep for this, if other attorneys are filing those and they are not the

01:24:15

TODD LAWSON - Cross

1 top charge, some of those may happen without my knowledge.

01:24:19

2 Q. Attorneys within your office at the Attorney General's  
3 office here in Phoenix typically know that if there's an  
4 election case, they should bring to it your attention as the  
5 lead prosecutor in the office?

01:24:31

6 A. I have a reputation, so yes.

7 Q. I won't ask about your reputation.

8 To the best of your knowledge, this is the  
9 authoritative list of election prosecutions that your agency  
10 produced?

01:24:43

11 A. To the best of my knowledge, yes.

12 Q. And whenever an election-related case within your office  
13 became public, you would add it to this list?

14 A. Yes. If there was another case filed by another attorney,  
15 I would certainly add it if I was aware of it, yes.

01:24:56

16 Q. And it's personally important to you that this list be  
17 accurate?

18 A. I would say yes. I do want to provide enough  
19 information -- the genus of this list was the idea that we were  
20 getting a number of media complaints -- not complaints but  
21 requests for information and I wanted to make sure this was all  
22 accurate.

01:25:08

23 Q. And this is just for the record, but none of these  
24 prosecutions concern non-citizen voting?

25 A. None.

01:25:22

United States District Court

TODD LAWSON - Cross

1 Q. And if you were aware of any successful prosecutions by  
2 your office for non-citizen registration or voting since 2008,  
3 2010, you would add them to this list?

01:25:23

4 A. Correct.

5 Q. And you can't think any reason why your office would have  
6 chosen not to include a successful prosecution of a non-citizen  
7 on this list?

01:25:34

8 A. I cannot.

9 Q. You would agree with me there have been dozens of  
10 elections in Arizona since 2020?

01:25:46

11 A. Counting primaries and generals, yes.

12 Q. And you would agree there were millions of ballots cast in  
13 Arizona since 2010.

14 A. Yes.

15 Q. You mentioned that most of these cases involved double  
16 voting. To your knowledge, do the laws at issue in this  
17 litigation address the issue of double voting?

01:25:58

18 A. I don't pretend to have command of all of the statutes  
19 that were passed but to my knowledge, no, these are not  
20 statutes about double voting.

01:26:17

21 Q. So setting aside this list for a moment, since 2010 you  
22 would agree with me your office has received thousands of  
23 complaints alleging violations of the election laws?

24 A. Yes.

25 Q. You would agree your office received thousands of election

01:26:32

United States District Court

TODD LAWSON - Cross

1 complaints related to 2020 alone?

01:26:35

2 A. That's correct.

3 Q. And your office has conducted, ballpark, 300 or so formal  
4 investigations into election-related offenses since 2010?

5 A. Yeah. The number I believe I gave you previously was  
6 somewhere between 2 to 300 and I would be hard pressed to pin  
7 it down to an exact number.

01:26:46

8 Q. I appreciate your clarification.

9 THE COURT: Would the discrepancy thousands of  
10 complaints, 300 investigations have largely to do with  
11 non-specificity of complaints?

01:26:59

12 THE WITNESS: For example, the complaint I referenced  
13 by Israel would be counted in the larger number but not the  
14 smaller number because we did the opening work, looked at it,  
15 said this doesn't -- this is not something that we would pursue  
16 and it would not get into the smaller number. Does that make  
17 sense, Your Honor.

01:27:20

18 THE COURT: Oh, his question said something about  
19 formal investigation. I was just thinking about investigation.  
20 Obviously you investigated the person who voted from Israel but  
21 did not put any process in motion for possible charges?

01:27:36

22 THE WITNESS: I doubt the person knows there was even  
23 a complaint made about them.

24 THE COURT: I was trying to get the magnitude of  
25 thousands of complaints, a very small percentage of

01:27:58

United States District Court

TODD LAWSON - Cross

1 investigations. Is it because many of the complaints are just  
2 a generic I think your office should be investigating all of  
3 this voter fraud as opposed to somebody from Israel voted?

01:28:05

4 THE WITNESS: So let me answer your question with the  
5 best statistic I can. When we started taking complaints in 202  
6 we began trying to classify them best we could by time. The  
7 single largest type of complaint we had in 2020 were Sharpie  
8 complaints which arose from a myth that was perpetrated on  
9 election day that if you marked your ballot with a Sharpie, it  
10 wouldn't count.

01:28:26

01:28:47

11 THE COURT: Sharpie gate.

12 THE WITNESS: Yes. And we had hundreds of Sharpie  
13 complaints that came in. Those come in to the count of  
14 thousands of complaints includes all the Sharpie complaints.

15 THE COURT: Okay. Because it's all election related  
16 as opposed to fraud related.

01:29:04

17 THE WITNESS: The people who were alleging that their  
18 vote wasn't counted because of a Sharpie were technically  
19 alleging fraud but they were doing so based on incorrect  
20 information.

01:29:19

21 BY MR. DODGE:

22 Q. I promise I don't have any questions about markers.

23 THE COURT: It was the issue of the moment for a  
24 couple of days until I think the Attorney General said we can  
25 read -- maybe all the County Recorders said we can read

01:29:35

United States District Court

TODD LAWSON - Cross

1 Sharpies.

01:29:39

2 MR. DODGE: I recall it well, Your Honor. I've seen  
3 the complaints in the database.

4 Could we pull up Plaintiffs' Exhibit 105?

5 BY MR. DODGE:

01:29:48

6 Q. We discussed these at your deposition. These are  
7 interrogatory responses provided by your office in response in  
8 this litigation?

9 A. Yes.

10 MR. DODGE: Could we go to PDF 16 and look at  
11 interrogatory number three?

01:29:58

12 BY MR. DODGE:

13 Q. Just take a moment to review the interrogatory itself.

14 A. Yes, I'm familiar with this.

15 Q. Great. Thank you. This interrogatory asked your office  
16 to identify any instances in which it was established by any  
17 prosecuting authority in Arizona that a non-citizen registered  
18 to vote or cast a ballot since January 1, 2016. Is that fair?

01:30:16

19 A. I can only speak to what we would have knowledge of within  
20 our agency. And anything that would be public from another  
21 agency that I would have been aware of which at that time was a  
22 select few U.S. Attorney cases. But I'm aware of the  
23 parameters of the question.

01:30:37

24 Q. Thank you. And that's what I was looking for.

25 A. I saw the look on your face as I was answering.

01:30:52

United States District Court

TODD LAWSON - Cross

1 Q. Okay. I'm trying to get you out of here quickly, sir.

01:30:54

2 A. Of course.

3 Q. So this interrogatory on its face was not limited to  
4 prosecutions by your office?

5 A. No. And that is part of the reason we made sure to  
6 provide you the information about the two sealed cases, so that  
7 we wouldn't -- we wanted to make sure you had a full picture.

01:31:02

8 Q. I appreciate that. Just so it's clear on the record, this  
9 interrogatory asked about political subdivisions within the  
10 State of Arizona?

01:31:19

11 A. Yes. And to the extent during the deposition I indicated  
12 we had a chart that I was aware of that had some other  
13 jurisdictions on it, we provided that to you.

14 Q. And take a moment to review your office's response to the  
15 interrogatory.

01:31:32

16 A. Okay.

17 Q. You see a citation there to a Bates number; right? I know  
18 you're a criminal attorney but I suspect you know what a Bates  
19 number is.

20 A. I see the 349.

01:32:07

21 Q. Right. And that's the list of prosecutions we've sort of  
22 been discussing.

23 A. Yes. I think that's the same one, yes.

24 Q. And it notes the existence of one pending case where a  
25 charge involved a non-citizen; correct?

01:32:17

United States District Court

TODD LAWSON - Cross

1 A. Yes. And that was the one we talked about, the four, one 01:32:21  
2 of those, and then in the course of preparing, we found the  
3 sector one.

4 Q. And we'll get to that. I'm just building the record here.  
5 We agreed that this response, with the exception of that sealed 01:32:29  
6 case, doesn't contain any instances of non-citizen voting?

7 A. I'm sorry. I don't understand your question.

8 Q. Let me ask a little more precisely. The interrogatory  
9 response incorporates the AG's prosecution list; right?

10 A. Yes. 01:32:49

11 Q. And that list doesn't have any instances of non-citizen  
12 voting?

13 MR. LANGHOFER: Cumulative.

14 THE COURT: Sustained.

15 BY MR. DODGE: 01:32:58

16 Q. This interrogatory response, with the exception of the  
17 sealed case, does not identify any non-citizen voters?

18 A. Correct. And then I believe this was amended and it was  
19 an amended response.

20 Q. Could we pull up Plaintiffs' Exhibit 106 and can we go to 01:33:12  
21 PDF page three?

22 This is the supplemental response?

23 A. Yes. And this was after we discovered the second case  
24 that wasn't one that I was responsible for.

25 Q. Final question on this: Your interrogatory responses 01:33:29

TODD LAWSON - Cross

1 beyond these two sealed cases does not identify any instances  
2 of non-citizen voting in Arizona?

01:33:32

3 A. That's correct.

4 MR. DODGE: So let's go to Plaintiffs' Exhibit 292  
5 and go to PDF page six and zoom in at the top there. Yes.  
6 That's right.

01:33:49

7 Q. Do you see that second bullet that says approximately two  
8 involve ballots cast with individuals who were not eligible to  
9 vote?

10 A. Yes, sir.

01:34:05

11 Q. That's different than the two sealed cases we were just  
12 talking about; right?

13 A. That's correct.

14 Q. And to the best of your recollection, those cases involved  
15 instances of a felon without restored rights voting?

01:34:11

16 A. That's correct.

17 Q. You talked to Mr. Whitaker a little bit about why -- or  
18 that this document is divided into illegal voting cases and  
19 election cases?

20 A. Correct.

01:34:30

21 Q. Can you see as to why the two are different?

22 A. Again, the original point of preparing this document was  
23 in response to media requests. We used to get a lot of media  
24 requests and the requests would sometimes be ill-formed. They  
25 would say tell us about your election cases or tell us about

01:34:46

TODD LAWSON - Cross

1 your vote voting cases and then we would have people take one  
2 answer and conflate the two.

01:34:49

3 So I felt it was necessary to divide cases about  
4 candidates and things like that from cases about individuals.

5 Q. They are different phenomenon?

01:35:03

6 A. Different sections, different criminal violations and they  
7 were being conflated.

8 Q. I now want to ask about those two sealed cases and I want  
9 to be very clear none of my questions are asking you to violate  
10 your ethical obligations. And if you feel that they are,  
11 please say as much.

01:35:17

12 Is it fair to say that those two cases both involved  
13 individuals who engaged in systematic identity theft over a  
14 number of years?

15 A. I believe that's an accurate description, yes.

01:35:32

16 Q. You mentioned the one instance of the individual who  
17 assumed the identity of the deceased child. Do you remember  
18 that?

19 A. Yes.

20 Q. In your experience as a prosecutor with the Attorney  
21 General's Office, you're not aware of another case within  
22 Arizona with a similar specific set of facts like that one?

01:35:50

23 A. Involving a voting allegation, no, I'm not.

24 Q. And that case was referred to you in 2017?

25 A. Yes.

01:36:07

United States District Court

TODD LAWSON - Cross

1 Q. And it was filed in 2019?

01:36:08

2 A. That's correct and remained sealed.

3 Q. The second case involved benefits fraud?

4 A. That's correct.

5 Q. Neither of those cases involved voting in connection with  
6 the 2020 or 2022 elections?

01:36:19

7 A. I don't believe either of those people were alleged to  
8 have voted in either of those elections; but, honestly, if we  
9 filed them in 2019, I'm not sure we looked.

10 Q. Both of those prosecutions predate the creation of the  
11 Election Integrity Unit in your office?

01:36:33

12 A. Correct.

13 Q. The details of those cases are not public?

14 A. Correct.

15 Q. The members of the Arizona legislature who debated and  
16 voted on the laws of this case could not have known about those  
17 cases?

01:36:47

18 A. I believe the first time we decided as an agency that we  
19 were prepared to discuss them even in the abstract was during  
20 the deposition to prepare for this case because they are  
21 confidential.

01:37:00

22 Q. So fair to say the answer to my question is yes?

23 A. Yes.

24 Q. Do you recall during your deposition we discussed an email  
25 from a democratic Senate staffer requesting information from

01:37:12

United States District Court

TODD LAWSON - Cross

1 your agency about its voter fraud prosecutions?

01:37:15

2 A. I do remember that, yes.

3 Q. Good memory. Do you recall that your office was not able  
4 to ultimately provide her with any examples of non-citizen  
5 non-citizens voting in Arizona?

01:37:26

6 A. I remember our discussion. I can't remember the outcome  
7 of it but that wouldn't surprise me, your summary.

8 Q. Okay.

9 MR. DODGE: If we could pull back in Plaintiffs'  
10 Exhibit 105 and go to PDF page four and look at interrogatory  
11 number one.

01:37:41

12 BY MR. DODGE:

13 Q. And please take a moment to review that.

14 A. Could I continue on to the next page?

15 Q. Of course. Read the whole thing. You only need to read  
16 through subpart one.

01:38:00

17 A. Okay. Thank you.

18 Q. Fair to say in response to subpart one, your office  
19 identifies two interests that are promoted by the laws here?

20 A. Yes.

01:38:30

21 Q. The first is that the laws serve the state's interest in  
22 ensuring that voter registration is limited to individuals who  
23 are eligible to vote. Did I get that right?

24 A. That's correct.

25 Q. And can you explain to the Court how the Challenged Laws

01:38:40

United States District Court

TODD LAWSON - Cross

1 do that?

01:38:43

2 A. I cannot --

3 MR. LANGHOFER: Foundation.

4 THE COURT: Excuse me. Overruled.

5 Continue with your answer.

01:38:50

6 THE WITNESS: I can only speak to the general  
7 interest there in terms of as I pursue cases, for example, in  
8 the arena of convicted felons, that there is a general interest  
9 in making sure that only those eligible to vote are doing their  
10 voting -- or voting.

01:39:05

11 BY MR. DODGE:

12 Q. It was a felony in Arizona prior to the enactment of these  
13 laws to register or cast a ballot when ineligible to do so?

14 A. Correct.

15 Q. Going back to the two sealed cases we were discussing, can  
16 you explain how the laws in this litigation would have  
17 prevented those individuals from registering to vote?

01:39:20

18 MR. LANGHOFER: Speculation.

19 THE COURT: Excuse me. I missed the question.

20 MR. DODGE: I can repeat it.

01:39:32

21 THE COURT: No. I can read it right here.

22 Sustained.

23 BY MR. DODGE:

24 Q. Based on your experience as the lead prosecutor in the  
25 Election Integrity Unit, would the Challenged Laws in this case

01:39:51

United States District Court

TODD LAWSON - Cross

1 have made it more difficult for the two individuals in those  
2 cases to register to vote or cast ballots?

01:39:54

3 MR. LANGHOFER: Same objection.

4 THE COURT: Sustained.

5 BY MR. DODGE:

01:40:02

6 Q. Going back to Plaintiffs' Exhibit 105 at PDF page five.  
7 You see that your office also indicated that the Challenged  
8 Laws search the state's interest in ensuring that members of  
9 the public trust elections?

10 A. Yes, I'm familiar with that.

01:40:16

11 Q. And the response states that, quote, some members of the  
12 public may feel bad about election results, rightly or wrongly.

13 Do you see that?

14 A. Yes, I'm aware of that.

15 Q. You're not able to explain how the Challenged Laws promote  
16 public trust in elections? Is that fair to say?

01:40:27

17 MR. LANGHOFER: Foundation.

18 THE COURT: Overruled.

19 You may answer.

20 THE WITNESS: I will say that one of the motivations  
21 in both setting up and then the operation of the Election  
22 Integrity Unit was to address people who had concerns about  
23 elections and either debunked their concerns or if, to the  
24 extent their concerns pointed to valid cases that could be  
25 filed, we pursued those cases.

01:40:37

01:40:51

United States District Court

TODD LAWSON - Cross

1 BY MR. DODGE:

01:41:00

2 Q. The next sentence in the response is that the Challenged  
3 Laws may help alleviate such doubt. Do you see that?

4 A. I believe in the deposition I said the word "may" does a  
5 lot of work in that sentence.

01:41:12

6 Q. And that's because it's a speculative statement?

7 A. Yes.

8 Q. And I actually skipped a sentence. The sentence before  
9 that says: Some members of the public -- well, the use of term

10 "may" in that sentence: Some members of the public may feel  
11 doubt about election results, rightly or wrongly, you agree  
12 with me that's a speculative statement as well?

01:41:29

13 A. Correct.

14 Q. And you agree that your office's response does not  
15 categorically state that the Challenged Laws will help  
16 alleviate such doubt?

01:41:44

17 A. Not categorically we did not respond that way.

18 Q. Final question. To the best of your knowledge, the  
19 Attorney General's office has not identified any additional  
20 state interests that it believes the Challenged Laws promote  
21 beyond the two we were just discussing?

01:42:02

22 A. No, I don't believe we have.

23 MR. DODGE: No further questions.

24 THE COURT: Any other questions on cross-examination  
25 of this witness?

01:42:17

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 Mr. Whitaker, questions on redirect? 01:42:20

2 MR. WHITAKER: We have no redirect for this witness,  
3 Your Honor.

4 THE COURT: May Mr. Lawson be excused as a witness?

5 MR. WHITAKER: Yes. 01:42:43

6 THE COURT: Any objection?

7 MR. DODGE: No objection.

8 THE COURT: Thank you, sir. You may step down and  
9 you are excused as a witness.

10 THE WITNESS: Thank you, Your Honor. 01:42:49

11 (Witness excused.)

12 MR. LANGHOFER: Your Honor, may Professor Hoekstra be  
13 reseated?

14 THE WITNESS: Yes, please.

15 (MARK HOEKSTRA, PH.D., a witness herein, was duly 01:43:24  
16 sworn or affirmed.)

17 MR. LANGHOFER: May I proceed, Your Honor?

18 THE COURT: You may.

19 **DIRECT EXAMINATION**

20 BY MR. LANGHOFER: 01:43:31

21 Q. Professor Hoekstra, welcome back. One cleanup question  
22 before we go on to the next study. In the Cantoni and Pons  
23 study with 1.6 billion observations you described before, are  
24 both of those authors political scientists?

25 A. I know for Vincent Pons is a trained economist in the 01:43:57

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 Harvard Business School. Off the top of my head, I don't  
2 remember about Cantoni but I suspect Cantoni is also an  
3 economist.

4 Q. All right. We left off discussing the Endres and  
5 Panagopoulos study. There's another one we may not need to  
6 cover in as much detail by Citrin. Do you remember that?

7 A. Yes.

8 Q. What's the method in that study?

9 A. So Citrin and co-authors doing something similar to what  
10 the Endres and Panagopoulos paper were doing, which is  
11 explaining the fact that not everyone is super aware of what  
12 the rules are in their state. And so they are doing this  
13 experiment where they are informing a random set of voters,  
14 hey, there's an election and also there's a voter  
15 identification law and sometimes they will queue other things.

16 And then other people will just get the notice that,  
17 hey, there's an election and they will compare across those  
18 groups with the intent of learning about what the likely impact  
19 of these laws can be.

20 Q. All right.

21 MR. LANGHOFER: Elaine, can I have the podium laptop,  
22 please.

23 BY MR. LANGHOFER:

24 Q. I'm showing you on the screen here, sir, the abstract from  
25 the Citrin study. What did they find with their process?

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 A. Yeah. They find that there's -- for low-propensity voters 01:45:13  
2 there's evidence that when you inform them about this, about  
3 voter identification laws, they are actually more likely to  
4 vote to the tune of about one percentage point.

5 Q. All right. Was this a randomized controlled experiment? 01:45:27

6 A. It was.

7 Q. You believe this can address the issue of causality?

8 A. Yes, I do.

9 Q. Let's talk now about the --

10 THE COURT: So was this another two postcards, one 01:45:41  
11 that just said go vote and the other one said go vote and, by  
12 the way, bring ID?

13 THE WITNESS: Yeah. Let me look at it and make sure  
14 I don't mischaracterize it. You know, the way most of these  
15 studies work, and I have to look in more detail to see what the 01:45:58  
16 different treatments are, but sometimes the control is always,  
17 you know, a notice that says there's an election; right? And  
18 then there might be a treatment arm that says there's an  
19 election and, by the way, there's a voter identification law.  
20 And then the third one, and I think in this one they actually 01:46:14  
21 have some evidence that says here's how you might go about  
22 getting an acceptable ID; right? So they are also telling them  
23 something about how to potentially solve a problem.

24 And in other cases I don't remember here, I think in  
25 the previous paper they had one treatment arm that said are you 01:46:33

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MARK HOEKSTRA, PH.D. - Direct

1 aware that, you know, a lot of people believe that these things 01:46:36  
2 are likely to have a disproportionate impact on minorities? So  
3 they will queue different aspects of the law. And, again, this  
4 one seems to mostly be about the notification that the law is  
5 there and then also the fact that there's help in certain -- 01:46:52  
6 you can go find help to get an ID.

7 BY MR. LANGHOFER:

8 Q. Okay. So one more we should talk about and this is the  
9 Komisarchik and White paper. And you're familiar with this  
10 paper, sir? 01:47:13

11 A. I am.

12 Q. What was the process they used in this case?

13 A. Yeah. So one of the big -- one of the big fights, which  
14 I'm sure everyone in this room is aware of, is this fight over  
15 preclearance, right; and so whether states would have to go get 01:47:26  
16 preclearance from the federal government in order to change  
17 voting rules and that came out of like all this bad stuff that  
18 happened in the sixties and so on.

19 And so what happened is in the *Shelby* decision, which  
20 again everybody knows, but in 2013 they said no more 01:47:42  
21 preclearance, right, so you don't need to go get the feds'  
22 approval to do these thing.

23 What this paper does is, it says, well, first they  
24 show that the end of preclearance led states to do the types of  
25 things that the experts on the other side would say increased 01:47:57

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 voting casts, so they will do things like -- the two main 01:48:01  
2 things that they show is they show that these states responded  
3 by passing strict voter identification laws and also by  
4 attempting to sort of purge ineligible voters off of the  
5 registration list. Those are the two main things that they 01:48:19  
6 did.

7 And so they show using a difference-in-differences  
8 approach, which we've talked about, same approach as Pons used,  
9 and they show what is the impact of this. The end of  
10 preclearance and the associated increase in expected voter 01:48:32  
11 costs, right, on turnout of groups that we might subpoena worry  
12 about and specifically they are looking at turnout of Hispanics  
13 and Blacks.

14 Q. I would like to show you page 12 of that study in Figure  
15 2. Can you explain the charts that were presented? Before we 01:48:49  
16 go on, I should make something clear. Has this study been  
17 published yet?

18 A. No. This is a working paper with -- Ariel White is a  
19 professor of political science at MIT and I believe her  
20 co-author is I think at Rochester. And so it's not published. 01:49:05  
21 It is -- according to the author's website, it's under revision  
22 for the journal. The way a publication works is you send it to  
23 a journal. Most of the time they say, "This is not good enough  
24 for us, take your study elsewhere." Sometimes they say, "Oh,  
25 this is good but we want you to fix a few things."And then you 01:49:25

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MARK HOEKSTRA, PH.D. - Direct

1 get a chance to respond to those comments.

01:49:28

2 My guess is like 90, 95 percent of the time when you  
3 get that offer to revise the paper, it ultimately gets  
4 published.

5 This paper is in that revision visions process  
6 according to the author's website.

01:49:39

7 Q. The other studies that we've discussed so far that have  
8 been published in peer-reviewed journals?

9 A. Yes. Everything else.

10 Q. Back to page 12. Can you tell me what's going on on page  
11 12?

01:49:52

12 THE COURT: Was this available to you because the  
13 author's website says: Here's my report. It's not final yet.  
14 It's under revision?

15 THE WITNESS: When you say "this" available, the  
16 paper or the information about --

01:50:07

17 THE COURT: The paper.

18 THE WITNESS: Yeah. So the paper is available on  
19 their website. Anybody with an Internet connection can go find  
20 it and that's -- the end of preclearance is a pretty big deal.  
21 So it's kind of like an obvious thing to study and so that's  
22 how I found it.

01:50:17

23 And then on their website they also indicated the  
24 under revision for -- I forgot the name of the journal.

25 \\

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 BY MR. LANGHOFER:

01:50:35

2 Q. Can you explain the table, Figure 2 on the screen?

3 A. Yeah. So, for example, if you look at -- you know, if you  
4 look at the lower right corner, that is showing Hispanic voters  
5 turnout. So, again, what we have is we have treatment and  
6 control groups and what we're going to do is we're going to  
7 look to see how turnout changes over time in both the treatment  
8 and control group. The treatment group in this case is going  
9 to be the dotted line. And those are the states where they  
10 were under preclearance so they were restricted from doing  
11 stuff.

01:50:48

01:51:04

12 And then preclearance got ended so their world  
13 changed a little bit and they responded by passing strict voter  
14 ID laws and, you know, doing these purges of registration  
15 lists.

01:51:20

16 And then the control group are all the other states  
17 so not every state was under preclearance. So those states  
18 were not impacted at all by the *Shelby* decision.

19 And so just gives you an idea of, like, how are  
20 things going to change over time anyway because things can  
21 change over time. We want to have a control group that. Gives  
22 us an idea of what that change would be.

01:51:32

23 So, again, if you want to assess the validity of  
24 diff-in-diff, you want to look at the left-hand side of that  
25 figure on the lower right. And, ideally, what you want to see

01:51:49

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1 is that those two lines are the same distance apart the whole  
2 time, to the left of that vertical line. And so when one goes  
3 up, the other goes up. When one goes down, the other goes  
4 down.

5 And if that's true, it gives us some degree of  
6 confidence that the assumption that we need for causality is  
7 likely to hold. And if you look at especially the lower right,  
8 that looks true. It also looks true if you look directly above  
9 it for Black turnout. They are tracking each other quite  
10 nicely and that's, again, called the parallel trends  
11 assumption.

12 And then what you see in the post period is this is  
13 what they are going to -- what they are going to estimate, the  
14 treatment effect is, do we see that gap close or not? If we  
15 look at the upper right, in general, what you see is, yeah,  
16 there was this little gap between but actually the preclearance  
17 Black voters were a little bit more likely to vote. So that  
18 gap, they closed that gap a little bit.

19 And so ultimately, you know, if you look at that  
20 upper right corner, the authors are going to estimate that  
21 there was this I think it's roughly a two percentage point  
22 increase in Black turnout in the states that passed these  
23 additional burdens, right, in the states that passed these  
24 other additional laws compared to the other states.

25 The same thing is true if you look at Hispanic

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1 voters, lower right, you have a much smaller gap on these lines 01:53:10  
2 on the right than you have on the left. In other words, the  
3 voters that were subject to preclearance or that were no longer  
4 subject to preclearance, voters in those states, they close  
5 some of the gap. 01:53:23

6 And so, again, the experts on the other side would  
7 have you believe that every time you have this thing that  
8 increases voting casts, you're going to reduce voting. We've  
9 now seen a few examples where, like, the reality of it is when  
10 you study this thing and you use good designs, you're actually 01:53:37  
11 finding in some cases zero like the Pons paper.

12 In this case you are finding a positive effect and I  
13 think that is because in the real world, these things come with  
14 lots of things. They -- maybe they make people upset. Maybe  
15 they make people feel better about election integrity. There's 01:53:56  
16 a lot of potential mechanisms why people may be more likely to  
17 turn out as a result of this sort of thing but they are finding  
18 that and here they are finding it for minority groups.

19 Q. So one more image on this. We're going to look at page 16  
20 of the same study. Is this showing confidence intervals? 01:54:14

21 A. Yes. So this is showing the resulting estimates. So,  
22 again, as long as you believe that parallel trends assumption,  
23 which seems reasonable given that the difference seemed  
24 constant before the law was changed. This is estimating the  
25 impact impacting the end of that preclearance on turnout and so 01:54:36

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1 for Hispanics, what you see is they are estimating a  
2 statistically significant increase in turnout among Hispanic  
3 voters.

4 If you look at Black voters, you see also a positive  
5 increase and that confidence interval sort of barely overlaps  
6 zero, so it's probably marginally significant we would say,  
7 between the five and ten percent level.

8 Q. Is it your view that this study can speak to the question  
9 of causation?

10 A. Yes. So again, you know, this difference-in-differences  
11 method, this is one of the three methods that we teach in the  
12 first year econometrics course when we teach people how to do  
13 good research for the observational data. And, again, in this  
14 case, it was executed well because they -- they are looking at  
15 pre-trends. They are showing that pre-trends seemed to be  
16 parallel before the law was changed. And then the outcome is  
17 the outcome.

18 If we're doing research right, we shouldn't care  
19 about the outcome. In this case the outcome is in the interest  
20 for this lawsuit but the outcome is Hispanic and Black voters  
21 were more likely to vote when they were in these states that  
22 had previously been subject to preclearance.

23 Q. I want to be precise about what action may be causing this  
24 effect.

25 Is it your view that it's fair to say that these

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1 prove that just the passage of the law standing alone causes 01:55:59  
2 this effect or that it's more complicated?

3 A. What they are going to pick up is the net effect of the  
4 law and everything that comes with the law and so to the extent  
5 when you pass a law, it makes voters upset, Black and Hispanic 01:56:12  
6 voters upset, maybe because you have people out there yelling  
7 voter suppression, that might be one reason why they are more  
8 likely to vote.

9 Another reason might be when you pass these laws,  
10 people feel better about election integrity and, therefore, 01:56:30  
11 they are more likely to vote. That would be another  
12 explanation.

13 It could be that there's, you know, these  
14 mobilization responses from campaigns. You know, they respond  
15 either just saying, oh, by the way, there's a law and we are 01:56:44  
16 wondering if you are more likely to vote, so maybe now you're  
17 more likely to vote than you would have been or maybe part of  
18 it is to shout about voter suppression and maybe it does and  
19 there can be a bunch of other things but those are some  
20 examples. 01:57:00

21 Q. So far we've talked about randomized control experiments.  
22 We've talked about and diff-in-diff. I want to return to  
23 regression discontinuity. What does that mean?

24 A. So regression discontinuity is, again, another way of  
25 trying to get at causal relationships. So for regression 01:57:16

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1 discontinuity method, the idea is that there's some variable.  
2 There's some metric that determines what we would call  
3 treatment. And so -- would you like me to discuss it in the  
4 context of voting or something else?

5 Q. Certainly we need to get to voting in a moment. But I  
6 believe you've got a study about the economic benefits of  
7 education. Maybe describe it just briefly to illustrate the  
8 concept of regression discontinuity.

9 A. So first project I ever published was on the returns to  
10 going to a more selective school. So if you go to, you know,  
11 University of X versus X State University, do you earn more as  
12 a result of that? Does it cause you to earn more?

13 And that question is hard to answer because you  
14 have -- different people get into those schools; right? And  
15 even conditional on getting in, maybe the really ambitious  
16 people go to the more selective school or there's -- there  
17 could be lots of differences between the types of people who go  
18 to more versus less selective universities.

19 And so the approach that I took was to use this  
20 regression discontinuity and I got administrative data from a  
21 large flagship state university and I identified the people who  
22 were just above the admission threshold, so you applied and you  
23 barely got in, right, and so you now have the option of going  
24 there.

25 I applied, I just fell short and so you and I have

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1 otherwise maybe similar abilities. I'll compliment myself,  
2 right. So you and I have otherwise similar abilities. But you  
3 happened to get lucky. You landed on the right side of the  
4 cutoff. I landed on the wrong side of the cutoff. And of  
5 course we do this with lots of people. And the idea is, you  
6 know, that, essentially, it's random within that small area  
7 around that threshold, it's random whether you got in or not.

8 And then we look at your earnings years later and it  
9 turns out that people who barely got across earn about 20  
10 percent more than people who just fall short.

11 And that's the idea of a regression discontinuity.  
12 You're comparing you think otherwise similar people. Some of  
13 them happen to land on one side of the threshold. Some happen  
14 to land on the other side of the threshold but otherwise we  
15 expect these guys would have been similar and we compare their  
16 outcomes.

17 Q. Has anyone applied this sort of method to the question of  
18 whether voting costs reduce turnout?

19 A. Yeah. There's a paper in *Science Advances* that looks at  
20 this and specifically they are looking at data in Texas and  
21 Arizona -- not Arizona, Texas and Indiana. And one thing that  
22 is unique about Texas and Indiana is that once you turn 65  
23 years old, you don't have to have an excuse to vote absentee.

24 So it's basically automatic if you ask for it, they  
25 give it to you. Before you're 65, I'm going to forget the

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1 rules in Indiana but, for example, in Texas you have to prove  
2 that you're not going to be in the state during any of the  
3 times that the polls are open. I think if you give birth  
4 within a certain time which isn't applying to old people  
5 probably. And there's a few other -- if you're out of the  
6 country. There's a few exceptions but mostly it's pretty hard  
7 to get an absentee ballot in Texas when you're 64 whereas once  
8 you turn 65, it's pretty easy.

9 And so the idea of the paper is to compare both  
10 methods of voting across that threshold and say, hey, do people  
11 take advantage that, hey, now you can vote by mail. You don't  
12 even have to go to the polls?

13 And they look at this, including in 2020 when you  
14 might think that's a really big deal, right, to not to have to  
15 go into a public place in the middle of a pandemic to vote.  
16 That's a pretty big deal.

17 Q. And what did they find when they applied that method?

18 A. Yeah. So what they find is you reduce voting costs a lot  
19 to age 65. It changed how people vote. You did see this spike  
20 in absentee voting but it didn't change overrule turnout. And  
21 you can this, the nice thing -- I promised you pretty pictures.  
22 So the nice thing about regression discontinuity is you can  
23 assess it visually. Honestly, I think anyone in this room can  
24 assess it visually and basically see where the result's coming  
25 from.

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1 Q. Okay. So we've pulled up on page three of the study  
2 Figure 2. Talk us through the images here, please.

3 A. Yeah. So if you look at the left-hand side, either the  
4 upper left or the lower left which shows Texas and Indiana.

5 You know, this shows the share of votes cast that are cast  
6 absentee and what you see is, sure enough, at age 65 when the  
7 states make it much easier for you to vote absentee, you see  
8 people take up the state on that. Like people are -- people  
9 are choosing this method; right?

10 And then the question for assessing the empirical  
11 impacts of changes in voting costs on turnout, or another way  
12 to think about it would be does the inability to vote absentee,  
13 is that such a burden that it keeps some people from voting at  
14 all? And the way they do that is by then testing do I see a  
15 discontinuity in turnout that is the likelihood that you vote  
16 with any method at age 65?

17 And if voting costs matter a lot, if voting costs of  
18 going to the polls including in the middle of a pandemic are,  
19 like, such a large cost that they prevent people from voting,  
20 we should see a jump, we should see a discontinuity; right? I  
21 know the transcript can't pick up the hands but you want to see  
22 a jump much like you do on the left-hand side.

23 And if you look at the right-hand side, all of you  
24 visually can see -- I mean, you would have to squint really  
25 hard to try to argue that there's a jump there at age 65. It

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1 looks pretty smooth. And so the authors conclude there's no  
2 evidence that this change in voting costs changes turnout.

02:03:02

3 Q. Have any of the experts in this case on the plaintiffs'  
4 side authored studies on whether voter ID has a discernible  
5 effect on voter turnout?

02:03:21

6 A. Yes. So Professor Minnite wrote a study on this on voter  
7 identification laws. She criticized another paper that claimed  
8 to find effects on turnout and, broadly speaking, I think it's  
9 fair to say Professor Minnite concluded that the literature on  
10 that was inconclusive, that she didn't think that there was  
11 evidence that these voter ID laws impacted things one way or  
12 the other.

02:03:41

13 Q. Are you familiar with Professor Hersh?

14 A. I am familiar with Professor Hersh.

15 Q. Does he have a publication on the same question?

02:03:55

16 A. So I'm not -- so it's been a while since I've looked at  
17 that paper but, in general, he has a paper with I think someone  
18 from Stanford where they are arguing that they think that most  
19 of these voting laws seem to have not much of an effect.

20 Q. Let's think about -- we've talked about ethnic groups and  
21 how it may affect them. Let's think about income disparities,  
22 though, whether increasing the costs of voting has a  
23 disproportionate effect on low-income voters. Did you consider  
24 whether they may be more vulnerable to proof of citizenship  
25 requirement than others?

02:04:16

02:04:37

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1 A. Yeah. So I both looked through the evidence. Now I  
2 believe it's mostly Professor Burch who is making this argument  
3 in her report. I both looked at the papers that Professor  
4 Burch cited in support and evaluated those and I also found two  
5 I believe credible papers on this topic.

6 Q. Okay. You've -- we've already talked about the Medicaid  
7 paper. Let's not rehash that in detail, but what does that  
8 suggest about income effects to DPOC requirements?

9 A. Certainly the thing about Medicaid is you're only eligible  
10 for Medicaid if you're poor. So the only people who are in  
11 that study, the only people who could be impacted are people  
12 who are eligible for Medicaid and that means you're really low  
13 income. You're not just low income, you're really low income.  
14 And, obviously, there they found no evidence that requiring  
15 people on Medicaid to prove citizenship had any impact on  
16 enrollment or staying on Medicaid.

17 Q. Did you look at a study that concerned local economic  
18 shocks?

19 A. Yeah. So there's another study. And so, again, the  
20 question would be, you know, if Professor Burch were right,  
21 then when we, you know, impose, say, a negative economic shock  
22 on an area, the voting cost theory would say, well, maybe those  
23 people would be -- are now less likely to be able to vote.  
24 Maybe you would see turnout go down; right?

25 So the way that they study this is they look -- for

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1 example, you have some regions that might have a big furniture  
2 industry and maybe you have some regions that might have a big  
3 automotive industry and so suppose that what happened around  
4 2000, right, so all of a sudden a lot of furniture started  
5 getting built, manufactured in Asia and it became pretty hard  
6 for these U.S. furniture firms to compete with that.

7 And so there's this big negative shock but it's  
8 focused on these areas where there's a big furniture industry.

9 And so what they do is they compare changes in  
10 turnout in those areas to changes in turnout in other areas  
11 that have other industries and they say, well, if income really  
12 matters, if resources really matter to overcome the cost of  
13 voting, we should see this place with a negative shock. We  
14 should see them become less likely to vote.

15 And the same -- the inverse would be true for the  
16 positive shocks.

17 Q. And what do they find?

18 A. Yeah. So they found the opposite. So they found when you  
19 had a positive shock, you were actually less likely to shock.  
20 When you had a negative economic shock, when things got worse,  
21 people became more likely to vote. And, again, like it's not  
22 explicitly randomization but the point is that you have these  
23 international trends, like all of a sudden China starts  
24 producing furniture so it's going to have this bigger impact in  
25 one group, one area than another. And it's an accepted

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1 research design to get at causality and, again, they are 02:07:31  
2 finding literally exactly the opposite of what Professor Burch  
3 would have you believe.

4 Q. One more study that you relied on regarding economic --  
5 effect on low-income voters something about a Spanish lottery; 02:07:51  
6 is that right?

7 A. Right.

8 Q. What is that study?

9 A. Yeah. So one way, you know, one way social scientists  
10 have gotten at the impact of income, the impact of resources on 02:08:00  
11 outcomes, including voting, is by exploiting lottery shocks.  
12 There's -- I'm going to forget the details about the Spanish  
13 lottery but there's sort of oddities of the Spanish lottery  
14 that make it so that everybody in the village kind of  
15 collectively buys tickets so everybody in a town. They are all 02:08:19  
16 in on the same lottery ticket which is, like, different, right.  
17 It's individual here.

18 In Spain I think it's because they made the price of  
19 the tickets really expensive. The way it works is they are  
20 basically all in and they call it like the Christmas lottery so 02:08:34  
21 people who will buy these tickets.

22 But the impact of that is when you win, and I think  
23 my recollection is they might win two or three percent of the  
24 GDP. It's, like, quite a lot. And so what these authors do is  
25 they look at, okay, what happens when places -- what happens to 02:08:52

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1 voting in places where they win where they get this money 02:08:56  
2 showered upon them which in theory could help them overcome the  
3 costs of voting versus another village that played but didn't  
4 win. And of course the nice thing about the lottery is it's  
5 random, right, so some win by chance, some don't win by chance. 02:09:09

6 And they found no effect of these really big local  
7 economic shocks which, again, is like inconsistent with what  
8 Professor Burch would have you believe.

9 Q. The Spanish lottery so it's really a foreign election  
10 system, though; right? 02:09:26

11 A. Yeah. So, I mean, they are people and they have elections  
12 but it is in Spain. It's not in the U.S.

13 Q. Right. Okay, so in comparison to those studies that you  
14 were looking at in forming your opinion, what did you -- what  
15 did you -- let me put it is this way: Did you review the 02:09:42  
16 studies on which Professor Burch relied for the idea of  
17 low-income disparities?

18 A. I did.

19 Q. And did you look at her study from Brodtkin?

20 A. I did. 02:09:55

21 Q. And let's pull that up and have you discuss this. What  
22 was going on in the study from Professor Burch?

23 A. Yes. So what they are trying to say is essentially do  
24 these -- does the red tape around -- I guess this is claiming  
25 welfare. Does the red tape associated with claiming welfare 02:10:20

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1 the fact that you have to fill out forms and this sort of  
2 thing, does that have a bigger effect on low-income people  
3 versus on higher-income people? And that is -- it's a  
4 reasonable question, right. It would be directly relevant for  
5 this.

6 The problem is, like, the paper is done really badly  
7 and what they did is, they had a data set where they only  
8 looked at people who left welfare and then they classified the  
9 reasons into one of two groups. They said either you leave  
10 welfare for procedural reasons, which is that you didn't file  
11 the right form or you didn't do something that you were  
12 supposed to do, or nonprocedural reasons, which is basically  
13 you made too much money; right?

14 And then what they did is they compared conditional  
15 on leaving, they compared across income levels and they said  
16 aha, the low-income people conditional on leaving were more  
17 likely to leave for a procedural reason. That's mechanical.  
18 They are not going to leave because they got too much money  
19 because you -- they are literally low income.

20 So the only answer that study ever could have gotten  
21 is the answer they came to which is, like, not how do you  
22 research. There's a right way to do this study, which would  
23 be, okay, we have some costs that get imposed on some people  
24 and not on other people. And then let's see what the effect is  
25 on higher-income and lower-income people and do they leave?

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1 That's the way you would do that study. But they don't do that 02:11:48  
2 because they are only looking at leavers.

3 Q. So help me understand that. Among the people who are  
4 leaving, some leave for procedural reasons. I'll call it  
5 paperwork -- that may be inaccurate shorthand -- and others 02:12:02  
6 leave for substantive reasons. Why is it that -- why is this a  
7 mechanical result within that group?

8 A. Yeah. The reason is because if you're low income, by  
9 definition, you're not going to leave for nonprocedural reasons  
10 because you're low income. You didn't earn too much for 02:12:20  
11 welfare. You're low income.

12 On the other hand, if you're higher income, there's  
13 two ways for you to have left; right? One is you didn't do the  
14 paperwork, and the other is you made too much money. So it is  
15 always going to be true that the fraction of higher income 02:12:34  
16 people who left, conditional on leaving, it's always going to  
17 be true that they were more likely to leave for income-related  
18 reasons than this other group, than the low-income people.

19 It's not a test of whether -- I mean, it's --  
20 literally it's -- I don't know -- it's bizarre. 02:12:52

21 Q. Let's -- in thinking about the economic disparities of  
22 voter ID, did you consider the economics, the socioeconomic  
23 status of naturalized citizens?

24 A. Yeah. So one of the things that had to be pointed out is  
25 obviously these federal-only voters, they are going to be the 02:13:16

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1 ones who have to prove -- prove citizenship, right. And so if  
2 you were to believe -- and I don't think there's good evidence  
3 for it but if you were to believe, well, maybe those people are  
4 low income and they are not going to be able to do this as  
5 well. Well, it turns out like naturalized citizens do pretty  
6 well.

7 And so -- I have a table in my report where I  
8 compare, you know, citizens by birth in Arizona to naturalized  
9 citizens and they are not crazy different. But basically on  
10 almost every measure, the naturalized citizens are higher SES.  
11 They are higher income, better educated. They look different  
12 on race. That's not surprising. But they are, in general,  
13 they are more advantaged than citizens by birth.

14 Q. And the citizens by birth column in your table, is that  
15 just low-income citizens by birth or all citizens in Arizona?

16 A. That's all citizens in Arizona.

17 Q. Let's talk now about the idea that negative interactions  
18 with the Government through maintenance processes may  
19 discourage voters from participating. You're familiar with the  
20 arguments made by the plaintiffs on that issue?

21 A. Yes.

22 Q. And you looked at several studies on this issue as well?

23 A. I did. I certainly looked at those studies and I think  
24 there's one in particular that they failed to mention that is  
25 especially related.

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1 Q. Biggers and Smith?

02:15:04

2 A. Correct.

3 Q. All right. Tell us the method that Biggers and Smith used  
4 in their research.

5 A. Yeah. So Biggers and Smith, again, are going to use this  
6 difference-in-differences so they are going to look at changes  
7 in voting over time and they are going to take seriously this  
8 assumption that you need to hold, this common trends, and they  
9 do it a little bit differently here but they do it well. They  
10 are doing smart things.

02:15:11

02:15:27

11 The question they are attempting to answer is when  
12 Florida announced that they were going to go and essentially  
13 try to ensure that people were citizens, they went and had a  
14 target list of people and then some subset of those, they  
15 actually sent them letters saying you're going to need to prove  
16 citizenship and if you don't, you might lose the right to vote  
17 and so on and so forth; right? So they got this kind of  
18 threatening letter.

02:15:47

19 So then a big chunk of those people actually can go  
20 through and prove citizenship so they incurred that voting  
21 cost; right? And then later on the state, because there are  
22 lawsuits over all of these things forever; right? Due to the  
23 lawsuit, the state retracted that and they sent them another  
24 letter and said, more or less, just kidding. You guys can all  
25 vote.

02:16:03

02:16:23

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1 Q. Did everyone get the letter or just the ones who had  
2 responded with the proof?

3 A. Everyone got the letter I believe, yeah.

4 Q. Proceed.

5 A. And so then what they do is they say, well, you know, you  
6 made these people incur a cost and they might have viewed this  
7 as a negative interaction. I wasn't here for McDonald's  
8 testimony but in his report he would have you believe that when  
9 you have this negative interaction with law enforcement, that's  
10 going to deter you from voting. You will be less likely to  
11 vote. So they test that. Right. So in theory that could be  
12 true. Let's test it.

13 It turns out to be the case that those people were  
14 more likely to vote. And so, again, it suggests that  
15 there's -- there are these other things that happen when you  
16 pass these policies, when you do those things, and they tend to  
17 have kind of the opposite effect that -- sometimes zero but  
18 sometimes the opposite effect of what the experts on the other  
19 side would have you believe.

20 And then they go through again and they worry about,  
21 well, maybe, you know, essentially they worry about that  
22 assumption for difference-in-differences and it looks good. I  
23 mean, that's the short version.

24 Q. Let's think now about those studies on which Professor  
25 McDonald relies. That negative interaction will discourage

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1 relationship. I believe he relied on three studies. The first 02:17:44  
2 one was by Professor Burch as it happens?

3 A. Correct. I remember.

4 Q. And what was -- do you believe that Professor Burch's  
5 study supports Professor McDonald's assertion? 02:17:54

6 A. The short answer is no, it did not and I don't think it  
7 should be controversial that it does not. Professor McDonald's  
8 assertion is that if you have this negative interaction with  
9 law enforcement types, it causes you to be less likely to vote.  
10 That's the assertion. 02:18:17

11 Professor Burch doesn't attempt to answer that causal  
12 question at all. So she has a paper where she's basically  
13 saying how often do felons vote compared to other people. It's  
14 a descriptive question. There are lots of differences between  
15 felons and other people, right, and so you wouldn't want to 02:18:31  
16 attribute whatever the difference is only to the fact that they  
17 had this negative interaction with law enforcement.

18 Different people commit crimes and don't commit  
19 crimes. So they didn't make any causal claims in that paper.  
20 She didn't have a design to get at causality in that paper and 02:18:49  
21 yet Professor McDonald is citing that as evidence of this  
22 causal assertion which is wrong. It's bad. He shouldn't do  
23 it.

24 Q. Professor McDonald also looked at a paper written by a  
25 Weaver and Lerman, L-U-H-R-M-A-N I think. 02:19:04

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1 Did he look at such a paper, sir? 02:19:10

2 A. He did. So that paper, you know, again, struggles with  
3 this issue and if you read it carefully, like, they acknowledge  
4 the people -- they are looking at people I believe who were  
5 arrested, charged, and perhaps convicted I believe were the 02:19:22  
6 three different groups and then they are looking at voting  
7 outcomes of those people compared to others.

8 And those authors are obviously aware of the problem  
9 that these two groups can be different in lots of ways. We  
10 have a correlation that that is now a causation issue and they 02:19:37  
11 try to do some things but they don't -- I mean, they don't have  
12 a good design. They don't have -- you know, they don't have  
13 the equivalent of a regression discontinuity. They don't have  
14 something that comes close to a randomized control trial. And  
15 ultimately, and I think even the authors acknowledge if you 02:19:54  
16 read the paper they will say yeah, there are things here that  
17 we can't control for that could be problems for us and we can't  
18 do it.

19 Q. The third paper that Professor McDonald relied on  
20 Ben-Menecham. I think it's B-E-N, hyphen, M-E-N-E-C-H-A-M. 02:20:09  
21 Are you familiar with this study, sir?

22 A. I am.

23 Q. And what was the design of the study?

24 A. So in that study they are looking at the impact of traffic  
25 citations from police on voting. And I believe as near as I 02:20:21

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1 can tell, that study is better. That study is pretty good. 02:20:25

2 And so, you know, I think a fair characterization of it is for  
3 whatever reason, when you give people traffic tickets, they are  
4 a little bit less likely to turn out as a result of that.

5 Notably they are not looking at a voting-related thing at all. 02:20:42

6 It's a traffic citation. It has nothing to do with voting.

7 And the other thing is, like most of us who get traffic  
8 citations, we actually did something wrong. We were speeding,  
9 went through a red light or whatever it is.

10 If you think about those federal-only voters that 02:20:57  
11 you're worried about, we're talking about people who are maybe  
12 citizens who just have to prove documentation. It's not  
13 getting at that question because those people are just, you  
14 know -- it's much closer to the Biggers and Smith article than  
15 it is to this one. 02:21:12

16 THE COURT: So is it just kind of a curiosity that  
17 people who have gotten traffic citations are less likely to  
18 vote?

19 THE WITNESS: So --

20 THE COURT: Is there some conclusion as to why or is 02:21:24  
21 it just isn't this interesting that these things appear to be  
22 totally unrelated?

23 THE WITNESS: Welcome to academia. I think what the  
24 authors would say is they would say, well, we know that some  
25 groups have much more interaction with law enforcement than 02:21:41

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MARK HOEKSTRA, PH.D. - Direct

1 others and so, for example, Black people are more likely in 02:21:43  
2 general to be arrested, convicted, all of these things. And so  
3 they are asking, well, does that impact, you know -- could that  
4 have this impact on turnout?

5 And they don't -- their clean issue method of getting 02:21:55  
6 at it is in the traffic citations thing, which is maybe not --  
7 really not what you would want but I'm defending their paper  
8 now so I think that's what they would say, though.

9 BY MR. LANGHOFER:

10 Q. Did any of the studies that Professor McDonald relied on 02:22:10  
11 consider a challenge to someone's voter registration as opposed  
12 to some other unlawful act?

13 A. No.

14 Q. Biggers and Smith, though?

15 A. Biggers and Smith did exactly that. 02:22:22

16 Q. All right. Professor Burch relied on a study Reny,  
17 R-E-N-Y. Am I right?

18 A. Yes.

19 Q. Let's talk about this.

20 MR. LANGHOFER: And why don't we go to page 17 of 02:22:41  
21 that study?

22 BY MR. LANGHOFER:

23 Q. Let's start with what is the question that Reny was trying  
24 to answer?

25 A. We're going to have to go back. I'm remembering many of 02:22:51

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MARK HOEKSTRA, PH.D. - Direct

1 these papers. I'm having a hard time remembering this  
2 particular one. I apologize for that.

02:22:54

3 Q. Don't apologize. I'm taking you back to the first page,  
4 the abstract. Let me know if you need more time to read that.

5 A. I remember now.

02:23:23

6 Q. We're going to flip forward to page 17. I would like you  
7 to describe the research model that they were using in this  
8 paper.

9 A. Yes. So the way -- you know, the way that Professor -- it  
10 just has background. The way that Professor Burch is citing  
11 this paper is she's saying that this paper is finding evidence  
12 on the impact of threat of immigration crackdowns I believe is  
13 the language that Professor Burch used which is characterizing  
14 this paper.

02:23:37

15 And specifically the effect of that on voting and you  
16 think broadly, okay, you could have a study on the impact of  
17 the threat of immigration crackdowns or the impact of  
18 immigration crackdowns on voting. You might imagine, well,  
19 over here you have crackdowns, over there you don't and now we  
20 compare and maybe a difference-in-differences framework and we  
21 see what the effect is. That's actually not what the paper  
22 does. It doesn't do anything close to that.

02:23:53

23 So instead, what the paper does is -- what do they  
24 call it? This is like academic speak. Let me get the term  
25 right. Essentially they don't have variation in immigration

02:24:13

02:24:33

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1 crackdowns. So what they have is what's highlighted.

02:24:41

2 So, you know, in the first model they say, well, we  
3 think there's a bigger threat to Hispanics later as we get  
4 closer to the election versus farther away which is, like, kind  
5 of wild, like, why is there a bigger threat closer to the  
6 election versus, like, farther away from the election? That's  
7 not what I would think of when I think of the threat of an  
8 immigration crackdown, is proximity to the election. That's  
9 the first way they define it.

02:24:57

10 The second way they define it is whether the state  
11 has a competitive Senate race in 2018 and, again, that is not  
12 what I would think of when I think of the threat of an  
13 immigration crackdown, is my Senate race competitive or is it  
14 not? But that is exactly how they are doing it.

02:25:13

15 The third thing is, they have a visit for whether  
16 Trump came because I don't know. Like whether Trump visited  
17 the state is a threat of an immigration crackdown? That  
18 doesn't make sense either.

02:25:29

19 The fourth thing, they operationalize threat as  
20 whether the state had unified Republican control of Government.  
21 Again, like that's -- I mean, to interpret that as the threat  
22 of immigration crackdown is like a little wild.

02:25:47

23 And then the last thing, they have one more where  
24 they are actually classifying some immigration laws. But  
25 that's broadly what the paper actually does that Professor

02:26:08

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1 Burch is citing as support for his hypothesis, that threat of  
2 immigration crackdowns is going to, you know, scare off  
3 Hispanic voters. Yeah, go ahead.

4 Q. In your mind, does the Reny study support the idea that  
5 negative interactions with the Government deter voting?

6 A. No.

7 Q. Professor Burch had one more study on this negative  
8 interaction problem and that was by Terry (phonetic) concerning  
9 a fear of responding to the census. Are you familiar with that  
10 study?

11 A. Yes.

12 Q. Can you tell us about what was going on in that research?

13 A. Yeah. So in that research there, you know, they are  
14 basically just asking -- they're asking people questions and  
15 trying to figure out, you know, what are they worried about.

16 And Professor Burch sort of incorrectly says that  
17 both Black and Hispanic people are failing to respond because  
18 they are scared about deportation, like the article doesn't say  
19 anything about Black people worrying about deportation. That  
20 would be kind of odd. It's only about Hispanics.

21 And the other issue is that Burch is trying to make  
22 this argument that even -- even people who are citizens might  
23 be intimidated by this and might have this fear that causes  
24 them to be less likely to vote out. But in the article they  
25 are actually not splitting -- they are not splitting up

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1 Hispanics by citizens versus not.

02:27:39

2 So when the article talks about yeah, there's  
3 Hispanics who are a little bit scared to answer some questions  
4 because of fear of deportation, it's not -- they are not  
5 talking about Hispanic citizens. They are talking about of  
6 Hispanics period. And, of course, undocumented Hispanics might  
7 well be worried about being deported because they are  
8 undocumented.

02:27:50

9 Q. All right. Let's turn our attention to really a new topic  
10 and that's unlawful voting. Also sometimes called voter fraud.  
11 You're familiar with Professor Minnite's report on this issue?

02:28:06

12 A. Yes.

13 Q. And you have a couple of criticisms of her report I think.  
14 Let's start with the definitional concern.

15 A. Yeah.

02:28:23

16 Q. What is your view there?

17 A. Yes. So, I mean, as I see it, and, frankly, as some  
18 others see it, there's two problems with her definition. One  
19 is that -- and perhaps the most important problem is that it  
20 requires criminal intent. So if somebody you know votes as a  
21 non-citizen but they did it without criminal intent, she won't  
22 count it.

02:28:37

23 And that might well be true, that in order to charge  
24 something, that you need to have evidence of criminal intent.  
25 But if -- in her own report, she cites these quotes from

02:28:58

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1 legislators who don't specifically talk about that in the 02:29:03  
2 quotes. They just say, well, we have these people who are  
3 voting and we have never verified that they are citizens and we  
4 would like to verify that they are citizens before they vote.

5 So the state can have an interest in keeping people 02:29:15  
6 from voting as non-citizens even if those people didn't have  
7 the intent to, you know, corrupt the system, for example.  
8 That's the first issue.

9 Q. Her definition she also makes a distinction between  
10 unlawful voting by an individual or third parties being 02:29:32  
11 responsible for this. Do you have a view on that part of her  
12 definition?

13 A. Yeah. And again my view here is echoed by -- like,  
14 frankly, by some of the same authors that she cites in her  
15 report which is that -- I don't know why we are only interested 02:29:46  
16 in measures of fraud that happened from voters as opposed to,  
17 like, third parties, like political parties or, you know, or  
18 these different campaign organizations.

19 And if any fraud had been perpetrated by those  
20 groups, like, she's not going to count it in her definition. 02:30:06  
21 And so it's an unnecessarily narrow definition of voter fraud  
22 in my view.

23 Q. Sir, you are not opining about the incidence of voter  
24 fraud in the state, are you?

25 A. No. I don't know what it is. 02:30:22

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1 Q. You do have some views, though, on the ease or not of  
2 measuring the incidence, don't you?

02:30:25

3 A. Sure. So one of the issues -- and it's not recognized at  
4 all. I wasn't here for her testimony but it wasn't recognized  
5 at all in her report, which is that when you are trying to  
6 measure cheating or corruption, like, the people a cheating and  
7 being corrupt don't usually like to be caught. And so it's a  
8 little bit hard sometimes to figure out how much is going on  
9 because those people don't like to be caught.

02:30:40

10 And that is a -- I mean, it's acknowledged maybe not  
11 universally in the literature but in most of these studies that  
12 test for it, they acknowledge it, like, hey, that's hard.

02:30:54

13 And Professor Minnite doesn't acknowledge that at all  
14 and yet, I mean, you study corruption, like, this is a big  
15 issue. Are you sure you can measure it? And are you sure that  
16 you can measure the type that's -- that you want to measure.

02:31:14

17 Q. There are some ways of measuring corruption, right?

18 A. So certainly these authors of some of these studies that  
19 she cites, they are going to propose a test and, you know, I  
20 think the way I would think about it is it's, like, you know,  
21 the test is going to capture what it can capture and maybe you  
22 find evidence of it. Maybe you don't. But I think when you  
23 report the results of that or in her case, when you interpret  
24 this, it ought to be interpreted with humility that I have a  
25 particular test for a particular form of fraud and not take

02:31:34

02:31:54

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1 that and say, therefore, I know for sure there's no fraud. 02:32:00

2 It's just not a principled stand to take on this type of issue  
3 given the known difficulty of measuring it.

4 Q. Have you looked into whether other academic reviews of the  
5 incidents at which fraud is -- excuse me, not fraud, crime is 02:32:17  
6 detected?

7 A. Yeah. So, you know, one of the -- arguably the primary  
8 source of evidence that Professor Minnite is citing in her  
9 report is that there are relatively view prosecutions and  
10 convictions for voter fraud. And obviously the first thing is, 02:32:35  
11 we have this -- you know, she's using this unnecessarily narrow  
12 definition in the two ways that I talked about.

13 But then the other issue is that it can be hard to  
14 detect these things and it can be hard to -- especially for  
15 fraud, you have to prove intent. It has been hard to prosecute 02:32:53  
16 these things. It can be hard to put together everything.

17 I don't know what fraction of fraud incidents get  
18 prosecuted because I don't know how much fraud there is; but  
19 when you look at other crimes, for example, if you look at  
20 property crimes, it turns out that only seven percent of 02:33:07  
21 reported property crimes are reported and prosecuted by police.

22 And so that's a case where we have a known victim and  
23 where there's usually some incentive to report the crime. Like  
24 if I want my stuff back, I've got to report it.

25 And even in those cases, like, it's only 6.7 percent 02:33:27

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1 of those things are actually being prosecuted criminally and 02:33:31  
2 presumably the number is much, much more, the fraction is much,  
3 much lower for voter fraud. But I don't claim to know what  
4 that is because I don't know how common voter fraud is or is  
5 not. 02:33:50

6 Q. Do you have any experience with the prosecution of  
7 academic cheating?

8 A. I do. So I think one illustration that I used in my  
9 report is, you know, I've been responsible directly for the  
10 grading of around 10,000 undergraduates and a big chunk of 02:34:10  
11 those when I was at TA in graduate school for these big  
12 principal sections. And if you were to look and say every  
13 university that I have been at has a process where you can  
14 prosecute cheating.

15 So a faculty member can say I know this student 02:34:28  
16 cheated. They go through this judicial process within the  
17 university and there are penalties and the penalties can  
18 include suspension and expulsion from the university; right?

19 And if you were to go look see what Professor Minnite  
20 does, out of these 10,000 students there are exactly zero 02:34:47  
21 prosecutions in the university system. There are none of those  
22 10,000 students were ever prosecuted, you know, much less  
23 convicted or penalized for cheating.

24 And I think it would be a really bad mistake to look  
25 at it and say, well, therefore, there must not have been any 02:35:06

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1 cheating by any of those 10,000 students on any of those exams 02:35:09  
2 or any of those assignments. Like I was there. Like I sit  
3 there and I watch kids. I'm sure some of them cheat. I'm just  
4 not sure I can prove it and I'm not sure it's worth the hassle  
5 of prosecuting it. And so as a result, nobody does that. 02:35:23

6 And so, again, this idea is like just because you  
7 don't have prosecutions doesn't mean the underlying behavior  
8 doesn't exist. Maybe it doesn't exist or maybe it exists and  
9 you don't detect it.

10 And I think that's the prudent view on this thing. 02:35:43

11 MR. LANGHOFER: Just one more topic Your Honor, voter  
12 confidence. I would like to keep powering on. So I know you  
13 like a 2:30 break.

14 THE COURT: We'll go ten more minutes and then we'll  
15 break. 02:35:59

16 MR. LANGHOFER: Thank you, Your Honor.

17 BY MR. LANGHOFER:

18 Q. So, Professor, you're familiar with the ideas presented by  
19 the plaintiffs on the potential effect on voter confidence of  
20 these laws? 02:36:10

21 A. Yes. Professor Minnite in particular I think made strong  
22 statements about this.

23 Q. And have you reviewed surveys on public confidence in the  
24 electoral process?

25 A. I have. 02:36:27

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MARK HOEKSTRA, PH.D. - Direct

1 Q. And what have you found?

02:36:28

2 A. Yeah. So in general, to my knowledge, there's no survey  
3 specific to Arizona. But there are a couple of different  
4 national surveys that ask people essentially how much fraud do  
5 you think there is and fraud of different types.

02:36:39

6 And, for example, if we take those numbers and impose  
7 those numbers on Arizona, which I think is arguably  
8 conservative for reasons we can talk about, you know, what you  
9 get is you get I think 700,000 registered voters in Arizona  
10 believe that -- believe that non-citizen voting is very common,  
11 so that's 700,000 people out of roughly 4.2 million registered  
12 voters in Arizona.

02:36:58

13 If you look at how many think there's a great deal of  
14 election fraud, that number is about 1.5 million out of the 4.2  
15 million registered voters. So it's clear there's -- I mean for  
16 better or worse, there's a lot of people in Arizona who think  
17 there's a problem.

02:37:20

18 And one potential benefit of these laws could be to  
19 help persuade them that the State is taking, you know,  
20 precautions to make it harder to do those things and hopefully  
21 improve perceptions.

02:37:35

22 Q. These numbers you just gave, those do assume that the rate  
23 of voter confidence or lack of confidence in Arizona tracks the  
24 national survey; right?

25 A. That's right. And so the reason I said I think that's

02:37:53

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1 conservative, because clearly there was political support for  
2 passing these laws in Arizona and, you know, in general, I  
3 think the way -- politicians don't tend to do things that their  
4 constituents don't like.

5 And so what that tells you is there is some popular  
6 support for these sorts of things which, if anything, I think  
7 suggest -- means that Arizonans are probably more worried about  
8 this than the average voter in U.S. but that's -- you know, I  
9 think that's why I would view it as conservative.

10 Q. Have you looked at any academic research on whether  
11 election integrity measures have an effect on voter confidence?

12 A. Yeah. I have. So, for example, the Pons paper that we  
13 studied earlier didn't find any effects on voter confidence of  
14 these voter ID laws and we can talk about that.

15 The best evidence that these things could possibly  
16 matter would be this study by Endres and co-author and, again,  
17 this is using that same experiment so it's sending out fliers  
18 to a random set of people and the fliers will flag that, by the  
19 way, there's a voter identification law in your state and the  
20 control group will just get a flier that says, oh, by the way  
21 there's an election; right.

22 And what they did is they followed up with a survey  
23 and asked how much faith do you have in election integrity.  
24 So, again, the idea is not all these people were aware of what  
25 the law was or at least it wasn't in the top of their minds.

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1 By sending them this flier, they moved it to the top of their  
2 minds. They made people aware that there's this safeguard in  
3 place against -- in this case it's really voter impersonation  
4 and they looked at -- they look at these measures of confidence  
5 in election integrity and they find evidence, you know, here  
6 that essentially those -- knowledge of those restrictions  
7 improved perceptions of integrity.

8 Q. I see that -- I put on the screen the Endres and  
9 Panagopoulos study. Do they find a very strong effect on voter  
10 confidence?

11 A. My recollection is I know there was a couple percentage  
12 points but I'm not sure I'm going to remember exactly. So I  
13 don't know if you characterize one, two, three, percentage  
14 points as big or not.

15 Q. It's not double digits?

16 A. It's not double digits, yeah.

17 Q. I see that I have missed a section of my outline so I said  
18 one more topic but there's actually now one more. I want to  
19 talk about administrative data. And there's been some concern  
20 expressed about whether databases used by the Government to  
21 perform their duties is sufficiently reliable. In the academic  
22 community, what is the view of the reliability of  
23 administrative data?

24 A. The view is it's the best you're ever going to get. And  
25 it's really good. So typically the -- you know, the

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1 alternative is to use surveys where you're asking people 02:41:00  
2 questions and you're relying on them to tell you the truth.  
3 And in certain contexts, we might worry about that or we might  
4 worry about whether people can remember. In some cases, that's  
5 the best you're ever going to do. For example, voter 02:41:13  
6 confidence, that's probably the best you're going to do.

7 But in general, like, years ago all of these famous  
8 economists, including David Card, who won a Noble Prize a  
9 couple years ago, wrote this open letter to the federal  
10 government saying please make administrative data available to 02:41:27  
11 more researchers because this is so much better than everything  
12 else that you can do with data sets out there that we can  
13 answer questions that you wouldn't be able to answer. Like  
14 this is literally, like, it sets the bar for data quality.

15 And that is -- and I think that's true also in 02:41:42  
16 McDonald's work, for example, and we can talk about that if you  
17 would like.

18 Q. Has Professor McDonald relied on administrative data in  
19 his own written publications?

20 A. Yeah. He has. He cites I think seven papers in these top 02:41:55  
21 two political science journals. I think four or five of them,  
22 five of them I think use administrative data on voting. It's  
23 clear it's obviously good enough to publish in the very best  
24 political science journals. He has a project on comparing  
25 voter turnout from administrative data to these post-election 02:42:13

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1 surveys on turnout. And so they ask you after the election,  
2 like, "Did you vote?" And it turns out, it seems like people  
3 lie. They overestimate. They overstate how often they voted.

4 And when you look at Professor McDonald's paper on  
5 that, he doesn't say, oh, the administrative data must be  
6 wrong. Like because people are saying they voted and yet it  
7 looks like we don't have enough votes cast. He's saying, no.  
8 No. No. The administrative data are actual turnout. He  
9 actually calls it actual voting or actual turnout and yet what  
10 people are saying doesn't track that.

11 And so what is explaining that? What is explaining  
12 the problem is the point of the paper. But implicit in that is  
13 this acknowledgment that administrative data are, you know --  
14 you know, set the bar for data quality for social science  
15 research.

16 Q. And while we're talking about data, Professor McDonald  
17 prepared a couple of tables, Tables 4 and 5 in his report, that  
18 talk about the demographics of voters who were -- well,  
19 statewide residence and then different categories of voters.  
20 Do you recall those tables?

21 A. Yes.

22 Q. And you expressed some concern about the way those tables  
23 were organized?

24 A. Yes.

25 Q. Can you explain to us your view there?

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1 A. Yeah. So there's two things. One is on inferring 02:43:31  
2 discrimination, which I assume we'll get to that in a minute;  
3 and the other on -- you know, there's some ambiguity. So the  
4 trouble is, when you look at these groups, federal-only voters,  
5 suspended, those voters whose citizenship has been suspended or 02:43:44  
6 canceled, what Professor McDonald is doing is comparing those  
7 to active registered voters in Arizona.

8 And that is going to be the right comparison if you  
9 believe that everybody in each of those three groups is a  
10 citizen. That's arguably the right benchmark. The problem is, 02:44:02  
11 like, we don't know -- like he doesn't know, I don't know  
12 whether all of these people in those three groups are actually  
13 U.S. citizens.

14 And so, you know, on the other extreme, if all of  
15 those people were non-citizens, then it would be inappropriate 02:44:20  
16 to be comparing them to actively registered voters. Instead,  
17 it would be appropriate to compare them to the Arizona  
18 population.

19 And so I show what would happen if you were to do  
20 that. 02:44:32

21 Q. You prepared some tables to that effect?

22 A. I did.

23 Q. I'm going to show you on the screen what's been marked as  
24 Exhibit 907. What are we looking at here, sir?

25 A. So we might be mixed up in the order of what we're talking 02:44:45

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1 about.

02:44:47

2 Q. I think we are. You say we. Charitably, I think 908 is  
3 where we should begin.

4 A. Yeah. So the sort of grayed out is what Professor  
5 McDonald is showing the actively registered. And so

02:45:00

6 essentially, you know, if you were to do it the way he's doing  
7 it, which is right, if you believe all of these people in those  
8 three groups are citizens, then what you get is, well, you get  
9 there's some evidence of the people who are likely to be  
10 disproportionately impacted are more likely to be Hispanic,  
11 more likely to be Black and so on.

02:45:18

12 But of course we don't know whether all of those  
13 people are citizens or not. And to the extent they are not, we  
14 want to move toward looking at Arizona population. And if you  
15 look at the population of Arizona, which is in that first row,  
16 what you see is that things like roughly proportionate, that  
17 we're seeing essentially, you know, a similar proportion of  
18 Black people, Hispanics, non-Hispanic Whites in these three  
19 categories, the federal-only voters, suspended citizenship,  
20 canceled citizenship. You're seeing it roughly tracks the  
21 Arizona population.

02:45:33

02:45:56

22 And, essentially, there's a choice of benchmark that  
23 he's making that is going to, you know, make it look like  
24 there's this disproportional effect, but implicit in that is an  
25 assumption that all of these people are citizens and that's --

02:46:13

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 you don't know that that's true.

02:46:16

2 Q. All right. Let's go back now to Exhibit 907. I think  
3 it's now ripe to discuss this one.

4 A. Yeah. So the other issue is, you know, he's making this  
5 argument that when -- you know that because -- well, let me  
6 back up.

02:46:29

7 My understanding is one of the claims in this case is  
8 that -- is whether or not there was discriminatory intent on  
9 the part of the legislature; right? Did they intend to  
10 discriminate against minority voters? And so then one relevant  
11 question is, well, let's look at the people who are arguably  
12 impacted by this. And so what I'm pointing out in this table  
13 is essential. It's a reproduction of his table but I'm also  
14 computing the number of non-Hispanic Whites and the number of  
15 minorities which is in columns three and five.

02:46:46

02:47:07

16 And so what you see is that you actually have, you  
17 know, more White people, 10,361, than you have minorities who  
18 are going to be impacted by this.

19 And so if you want to believe that there's  
20 discriminatory intent and that's, like, I guess your call,  
21 right; but if you want to believe that, you would have to  
22 believe that that discriminatory legislature is willing to sort  
23 of harm or disenfranchise more White people than non-White  
24 people. And that's an odd model of discrimination to have in  
25 the context of voting but that's what you would have to

02:47:25

02:47:43

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 believe.

02:47:47

2 Q. All right. One more. We're going to look at Exhibit 909.

3 What is this, sir?

4 THE COURT: This is still 907.

5 BY MR. LANGHOFER:

02:48:01

6 Q. I'm sorry. I need to press one more button on my iPad.

7 There we go.

8 A. Yeah. So this shows what the difference is. You know if  
9 you were to use the alternative benchmark of Arizona population

10 instead of registered voters which, again, is appropriate to

02:48:16

11 the extent that you think some of these -- so, well,

12 potentially all of those people on these lists or all of the

13 people on some of those categories are not citizens. What

14 essentially I'm doing is saying, well, how similar are the

15 numbers to what you would expect if the numbers were

02:48:33

16 proportionate to the Arizona population?

17 And so in column -- in column two we have the actual  
18 numbers and in column three what we have is, well, what would  
19 we expect if things were proportionate to the Arizona

20 population? And what that shows is those two numbers are

02:48:52

21 really similar to each other.

22 So his choice of benchmark is, like, super meaningful  
23 and it's based on this assumption that all of those people in  
24 those groups are citizens.

25 \\

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 Q. You said Arizona population. I just want to be clear. 02:49:09  
2 You mean, all -- including non-citizens in the population;  
3 correct?

4 A. Correct.

5 MR. LANGHOFER: Your Honor, we would move 907 through 02:49:19  
6 909 into evidence.

7 THE COURT: Is there any objection?

8 MS. KANTOR COHEN: Assuming the narrative is not part  
9 of it, no objection to the table.

10 THE COURT: With that objection, 907, 908, and 909 02:49:33  
11 are entered into evidence.

12 We'll take our break and reconvene at five minutes  
13 after three.

14 (Exhibit Numbers 907, 908, and 909 were admitted into  
15 evidence.) 02:49:45

16 COURTROOM DEPUTY: All rise.

17 (Recess at 2:49; resumed at 3:06.)

18 THE COURT: Thank you. Please sit down.

19 And Mr. Langhofer, you may continue with your  
20 questions. 03:06:22

21 MR. LANGHOFER: Thank you, Your Honor.

22 BY MR. LANGHOFER:

23 Q. Three hopefully short things. First is --

24 MR. LANGHOFER: Elaine, if I could have the laptop  
25 one more time. 03:06:30

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 BY MR. LANGHOFER:

03:06:30

2 Q. We have previously talked about the appendix to  
3 Dr. Hoekstra's report. Does this data come from the United  
4 States Census?

5 A. Yes.

03:06:39

6 Q. Census Bureau. It's actually the ACS.

7 A. Yes. Specifically, the survey is called the American  
8 Community Survey.

9 MR. LANGHOFER: Your Honor, we would move into  
10 evidence this appendix as Exhibit 973.

03:06:47

11 THE COURT: Any objection?

12 MR. BABBITT: No, Your Honor.

13 THE COURT: Okay.

14 MR. BABBITT: 973.

15 THE COURT: Okay. I know that it's 973. I'm just  
16 wondering why a different lawyer responded to the question than  
17 one that did before because we only have one lawyer per  
18 witness.

03:06:58

19 MR. DODGE: Your Honor, no objection, to be clear.  
20 The reason there are multiple counsel here is that Dr. Hoekstra  
21 addresses three different experts in his --

03:07:15

22 THE COURT: That doesn't mean that three different  
23 people are going to object and cross and --

24 MR. LANGHOFER: I think this is probably academic  
25 because I think I have perhaps two minutes left.

03:07:36

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 THE COURT: Anyway. 973 is admitted without  
2 objection.

3 (Exhibit Number 973 was admitted into evidence.)

4 BY MR. LANGHOFER:

5 Q. Professor Hoekstra, have you looked into this idea that  
6 voting causes voting?

7 A. Yes.

8 Q. And have you reviewed the academic literature on that?

9 A. I reviewed the literature that I believe it was Professor  
10 McDonald cited in support of that assertion.

11 Q. Okay. And the argument that he's making, to refresh the  
12 Court's recollection, is that any short-term deprivation of  
13 voting rights would have long-term consequences because voting  
14 causes voting. What is your view or criticism of the  
15 literature on which Professor McDonald relied?

16 A. Yeah. So, again, he's making this causal claim, right,  
17 that if by -- you know, by not voting, I randomly didn't let  
18 you vote this year, that you are now less likely to vote in the  
19 next election.

20 And so one of the papers that he cites it as the  
21 seminal paper on this topic. And if you read the title -- I'm  
22 not going to remember exactly the title but the title would  
23 have you believe that there is this causal relationship. And  
24 so I looked and I opened up the paper and literally in the  
25 abstract it says, you know, that we speculate -- something to

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 the effect of we speculate that voting causes voting. And so  
2 literally the conclusion the causal claim in the seminal paper  
3 is, according to the authors in their own abstract, like  
4 speculation. There were additional papers as well.

5 So, for example, there are a couple of papers cited 03:09:22  
6 in support of that assertion by Professor McDonald, again, that  
7 voting causes voting and it matters for the reasons Kory laid  
8 out where they don't actually make that causal claim at all.

9 So, you know, they are not claiming that voting  
10 causes voting. They are documenting a correlation between 03:09:39  
11 voting in the last election and voting in this election. But  
12 they don't have a strategy for assessing whether that's a  
13 causal relationship or whether, you know, something else drives  
14 that correlation.

15 And then to my recollection, there was one other 03:09:52  
16 paper that was, frankly, the best design of the studies that he  
17 cited and this one -- I want to say it's by Gerber and some  
18 other co-authors. So what they did is they did an experiment  
19 and they looked and they had two elections one year. They had  
20 an experiment where in August they sent out people to canvass 03:10:13  
21 and they encouraged people to vote. And then they looked,  
22 okay, those people who we -- who had the interaction were more  
23 likely to vote in the fall election and then they looked in the  
24 following election one year later and found, again, that those  
25 people were more likely to vote. 03:10:32

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 And so, you know, then what the authors do is they -- 03:10:34  
2 in order to interpret that as voting causes voting, they impose  
3 what econometricians call an exclusion restriction which is,  
4 again, one of those big things that we teach in the very first  
5 year of an econometrics course. 03:10:51

6 And specifically what you need to believe to give  
7 that interpretation to that study is that the only effect that  
8 this canvassing had on voting 16 months later was through  
9 whether or not you voted in this election. So they are not  
10 allowing there to be, like, a persistent effect of, oh, I 03:11:08  
11 talked to you and I got you interested in politics and it's  
12 that interest in politics that caused you to vote this year and  
13 vote next year. They are assuming that away.

14 And that is like -- to be fair, authors -- it's an  
15 older paper. It's 2005. They might not have known all of the 03:11:25  
16 pitfalls of imposing exclusion restrictions like hopefully they  
17 do now. But they shouldn't be making that assumption because  
18 obviously something today can impact voting a year and a half  
19 from now for reasons other than just whether it makes you vote  
20 this year. 03:11:43

21 And yet that's what -- that's what they need to  
22 assume to get to this conclusion that voting causes voting and  
23 of course that's -- that's the best evidence that they cite.

24 The authors in that same paper will also say, you  
25 know, it's an open question about the long-run effects because 03:11:59

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 they are only looking 16 months out. And it's an open question 03:12:02  
2 as to whether this would extend to other settings. And so they  
3 are properly sort of cautious. Professor McDonald is obviously  
4 not so cautious when he cites that as support for that  
5 hypothesis. 03:12:17

6 Q. Professor, what is your opinion on the net effect that  
7 these laws will have on turnout in Arizona?

8 A. Yeah. I'm basing my opinion on these papers that we've  
9 gone through and looking at what the evidence is and I think  
10 overall, it's most likely you're probably going to see zero 03:12:31  
11 effect on turnout. And I think there's some chance that you  
12 might see an increase in turnout because after all, I think  
13 there's some credible papers out there that find evidence of an  
14 increase.

15 Q. But the most likely outcome would be -- 03:12:46

16 A. Would be zero effect would be my bet.

17 Q. All right. Final thought. You've reviewed a paper from  
18 Pippa Norris at Harvard --

19 A. That's right.

20 Q. -- about voter confidence? 03:12:59

21 A. That's right.

22 Q. And you have a thought on her analysis?

23 A. Yeah. So I think as you sit and you watch these types of  
24 cases and these types of things and you watch politicians, one  
25 of the things that she points out is coming from the people, 03:13:15

United States District Court

MARK HOEKSTRA, PH.D. - Direct

1 coming from people like President Trump, you have these 03:13:20  
2 unsubstantiated claims of massive voter fraud. And she points  
3 out, rightly, as does Professor Minnite, that these things are  
4 damaging to I think democracy, to perceptions of electoral  
5 integrity and, again, Minnite points that out and I think she's 03:13:37  
6 right to point that out. You ought not be making  
7 unsubstantiated claims about fraud.

8 And on the other hand, Pippa Norris also would say  
9 the other challenge is on the other side, you have -- you know,  
10 you have people who use every opportunity, like every one of 03:13:56  
11 these laws that gets passed, they use it as an opportunity to  
12 accuse that side of being racist, discriminatory, you know, of  
13 attempting to suppress votes and so on.

14 And I think Pippa Norris is correct in pointing out  
15 that, like, collectively, both of these things are damaging, 03:14:12  
16 like this is -- this is a bad world like we would -- we should  
17 get out of this world somehow. Like where you've got crazy  
18 claims on the right about, you know, unsubstantiated election  
19 fraud and on the left you've got mostly unsubstantiated claims  
20 of, you know, of racism and intent to suppress votes and so on. 03:14:33  
21 And I think she's right to point out that both of these things  
22 are bad. They are both damaging.

23 MR. LANGHOFER: No more questions on direct, Your  
24 Honor. Thank you.

25 THE COURT: And I misspoke. Yes, multiple 03:14:46

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 cross-examination is permitted.

03:14:49

2 Nothing else from your side, I assume?

3 MR. DODGE: We appreciate that clarification, Your  
4 Honor. We were getting nervous over there.

5 THE COURT: I saw that you were getting nervous. I  
6 thought I would correct my misstatement.

03:14:59

7 MR. DODGE: As always, you are very perceptive, Your  
8 Honor.

9 **CROSS - EXAMINATION**

10 BY MR. DODGE:

03:15:12

11 Q. Christopher D. Dodge on behalf of the Mi Familia Vota  
12 Plaintiffs.

13 Professor Hoekstra, as Yogi Berra would say, it's  
14 deja vu all over again. We keep finding ourself in this  
15 situation but it's good to be speaking with you again.

03:15:20

16 I'm going to ask you some questions mostly about your  
17 response to Dr. Minnite's report but also a little bit about  
18 your background and then my colleagues will address your other  
19 reports here.

20 Your training is as an economist?

03:15:35

21 A. That's right.

22 Q. And you don't have any degrees in political science?

23 A. I do not have degrees in political science.

24 Q. And you don't consider yourself to be a political  
25 scientist?

03:15:48

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. True.

03:15:49

2 Q. You don't consider yourself to be a historian?

3 A. That's true.

4 Q. Have you ever taught a course focused on political  
5 science?

03:15:56

6 A. Not where that was the main focus, no.

7 Q. Have you ever taught any courses on election  
8 administration?

9 A. No. Certainly not a course on that. At most I would have  
10 a paper or two on the syllabus.

03:16:08

11 Q. Do you hold yourself out as an expert on the mechanics of  
12 election administration?

13 A. I believe I'm an expert in evaluating evidence on what the  
14 impacts of -- what the impacts of changes in election  
15 administration and so on.

03:16:29

16 Q. So you would say you're an expert in analyzing the impacts  
17 of changes in election laws but not necessarily the  
18 nitty-gritty of election administration itself?

19 A. I mean, I don't know exactly what you mean by  
20 nitty-gritty.

03:16:41

21 Q. I think that may be a term that you used in your  
22 deposition if I recall.

23 A. I don't recall that.

24 Certainly there are going to be aspects that people  
25 involved in elections are going to know a lot about and I'm

03:16:54

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 going to know less about. But obviously there are also data  
2 issues that are involved in how do you interpret data. And I  
3 have been working with data for a long time and doing it  
4 successfully and I do believe I'm an expert there.

5 Q. You never taught any courses on American elections?

6 A. Correct.

7 Q. Have you ever worked with or advised election officials in  
8 your professional capacity?

9 A. No.

10 Q. Have you ever interviewed an election official as part of  
11 your scholarship as an economics researcher?

12 A. No.

13 Q. Have you ever reviewed legislative committee hearings or  
14 debates in your scholarship?

15 A. Not as part of my scholarship.

16 Q. You mentioned that you've written one paper on the subject  
17 of elections. Is that fair?

18 A. That's correct.

19 Q. That was published in an economic journal?

20 A. That's right.

21 Q. That journal is called *Economic Letters*?

22 A. That's correct.

23 Q. And that journal specializes in short-form papers?

24 A. That's right. You have to make the point very concisely  
25 for that journal.

MARK HOEKSTRA, PH.D. - Cross

1 Q. Judge Bolton likes concise points. So -- the paper there  
2 was just three pages long?

03:17:55

3 A. Yeah. The final paper was three pages long. It was  
4 originally a full-length paper that we cut down for the  
5 purposes of submitting it to that journal.

03:18:08

6 Q. Do you know if that paper has been cited at all by  
7 political scientists?

8 A. I don't know. I know it's been cited by the -- by the  
9 Vincent Pons paper. I noticed that when I was reading that  
10 paper the other day but, again, he's an economist who published  
11 on voting. I don't know who the other citations are from.

03:18:25

12 Q. Do you know if there are other citations?

13 A. I think my Google color page said there are more than one,  
14 yeah. Some of them are of the working paper, so there's a  
15 working paper that was published in NBER and so there are  
16 citations to that and also to the published version.

03:18:41

17 Q. That paper did not analyze a proof of citizenship law.  
18 Fair?

19 A. That's correct.

20 Q. And it didn't analyze the effects of laws governing the  
21 voter registration process?

03:18:56

22 A. That's correct.

23 Q. You mentioned that you testified recently in another  
24 election law case in Texas. Did I get that right?

25 A. You did.

03:19:12

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. And the name of that case was something like *Lupe v.*  
2 *Abbott*?

3 A. That sounds right.

4 Q. Have you ever served as an expert in any other election  
5 law cases besides this one and the *Lupe* case in Texas?

6 A. No.

7 Q. You mentioned in your testimony that the court there  
8 recognized you as an expert; right?

9 A. That's right. I mean, the reports were accepted into  
10 evidence, for example, and we can talk about the one objection  
11 that was sustained which I'm sure you're going to bring up.

12 Q. The Court didn't recognize you as an expert in voter fraud  
13 in that case. Do you recall that?

14 A. Yeah. I don't know exactly what the characterization was,  
15 Chris, but it was something about -- the discussion about  
16 whether evidence of absence is -- or whether absence of  
17 evidence is evidence of absence. That part of my testimony was  
18 cut off.

19 Q. To your knowledge, that court has not yet issued a final  
20 ruling in that case?

21 A. Yeah. I don't know. So I'm guessing not. It was just  
22 ended recently.

23 Q. So it hasn't expressed any opinion yet on the credibility  
24 of your testimony there?

25 A. Not to my knowledge.

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. So fair to say no court as recognized you as an expert on  
2 voter fraud?

03:20:27

3 A. I don't know what we mean by recognized as an expert. So,  
4 literally, they accepted my reports into evidence and I was  
5 allowed to testify all day long so I would have thought that  
6 that contradicts your question. But maybe it's some term of  
7 art that I'm not familiar with.

03:20:37

8 Q. That's fair enough.

9 You don't consider yourself a scholar within the  
10 field of those scholars attempting to assess the incidents of  
11 voter fraud. Is that fair to say?

03:20:53

12 A. Am I a scholar within a field of scholars attempting to --  
13 I don't know how to characterize it. I've written one paper  
14 that I think speaks directly to the maximum amount of one  
15 particular voter fraud that could be occurring and it's one  
16 paper. I haven't written ten but I have written one. I don't  
17 know if that means I'm a scholar among scholars in your words  
18 or not but that's the precise answer.

03:21:15

19 Q. Did you know who Dr. Minnite was prior to being engaged in  
20 this lawsuit?

03:21:36

21 A. No.

22 Q. You don't know what her reputation is within her field  
23 when it comes to the issue of voter fraud?

24 A. No, I don't. I haven't surveyed people about how do you  
25 feel about this professor. I've looked at her CV and her short

03:21:50

MARK HOEKSTRA, PH.D. - Cross

1 publication record and that's about it.

03:21:54

2 Q. Had you reviewed any of her work prior to your engagement  
3 in this case?

4 A. No.

5 Q. Were you aware of her book The Myth of Voter Fraud prior  
6 to your work in this case?

03:22:00

7 A. No.

8 Q. Did you read The Myth of Voter Fraud in preparing your  
9 response to her report?

10 A. No.

03:22:11

11 Q. Can you identify for the Court the parties here who are  
12 have retained you in this litigation?

13 A. Yes. So the RNC and the State Senate and the State House.

14 Q. So fair to say you have not been retained by the Attorney  
15 General and the State in this case?

03:22:31

16 A. That's correct.

17 Q. You testified on direct that the Arizona Attorney General  
18 actually had retained you as an expert in a different matter  
19 regarding criminal issues, though; is that right?

20 A. Yeah. So if I said -- if I said the State Attorney  
21 General, I would have misspoken. I believe it's Maricopa  
22 Prosecutor's Office. So if I misspoke about that, I apologize  
23 but it's a criminal case so it's -- and I believe they were  
24 Maricopa.

03:22:41

25 Q. I appreciate that clarification.

03:22:59

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Do you know if there was any discussion in this case 03:23:02  
2 about whether the Attorney General and State would retain you?

3 A. I suspect there was. I know who won the last election and  
4 it was a Democrat and not a Republican and these things are  
5 political, so I can only imagine that there were conversations 03:23:15  
6 about this case.

7 Q. I would like to pull up Defense Exhibit 902, please. This  
8 is your rebuttal to Dr. Minnite; correct?

9 A. Yes.

10 MR. DODGE: Could we go to paragraph one. Zoom in on 03:23:36  
11 that.

12 BY MR. DODGE:

13 Q. You say in the last sentence here: My analysis is based  
14 on my knowledge and experience as an active research economist  
15 who is well versed in the frontier empirical methods used in 03:23:48  
16 causal analyses.

17 Did I mostly get that right?

18 A. I think so.

19 Q. So it's fair to say you hold yourself out as an expert on  
20 evaluating the impact of things? 03:24:00

21 A. But also, you know, doing research more generally,  
22 including working with data, linking data sets, all of the  
23 things that you have to do to be, you know, an active research  
24 economist which we've talked about before.

25 Q. I think it's fair to say you would agree that you don't 03:24:12

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 hold yourself out as someone with specialized knowledge about 03:24:15  
2 how elections work?

3 A. Yeah. I think that's true. My knowledge comes from  
4 reading the literature on these things and so on.

5 MR. DODGE: Could we please go to paragraph 16 of 03:24:42  
6 professor Hoekstra's report here?

7 BY MR. DODGE:

8 Q. You criticized Dr. Minnite here. You, Dr. Hoekstra, in  
9 your report here in paragraph 16 criticize Dr. Minnite for not  
10 accounting for the difficulty in detecting and observing fraud. 03:25:05  
11 Is that fair?

12 A. Yeah. That's fair.

13 Q. And in making this criticism, you cite I think three  
14 political science papers that use various language say it can  
15 be hard to detect fraud. Is that fair? 03:25:20

16 A. Yeah, I think that's fair.

17 Q. And you don't cite anything else in your report to support  
18 that criticism beyond these three papers?

19 A. Yeah. I didn't attempt to find the universe of papers  
20 that say documenting cheating or fraud or corruption is hard. 03:25:36  
21 I mean I think it's pretty much universally acknowledged but I  
22 cited those because they were literally cited by Minnite.  
23 Presumably she finds them reliable and I'm pointing out they  
24 acknowledge this.

25 Q. Did you review those studies prior to reviewing 03:25:56

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Dr. Minnite's report?

03:26:00

2 A. I had some familiarity with the Ahlquist paper from the  
3 previous case. I don't think I was familiar with these other  
4 two before this case. And certainly I read them. I'm more  
5 careful now.

03:26:18

6 Q. The one paper that you read, that was in connection with  
7 prior work as an expert witness?

8 A. Yes.

9 Q. It wasn't from your own scholarship?

10 A. I believe that's correct. I mean don't honest I wrote  
11 that paper that we talked about probably three years before we  
12 publish it and so that's some time ago, and I'm not going to  
13 remember all of the papers that I read while we were working on  
14 that project.

03:26:29

15 Q. Is it fair to say that most of the literature you've read  
16 with respect to the extent of voter fraud has been in  
17 connection with this case?

03:26:44

18 A. So that would be true for the most recent literature.  
19 Again, when we worked on this project on the impact of voter  
20 identification, I would have looked through the literature then  
21 as well writing that paper. A lot of that probably got cut in  
22 the final version because we had to make it really short. But  
23 I would have familiarized myself with the literature then as  
24 well.

03:27:05

25 Q. So just a couple of questions about those three papers you

03:27:17

MARK HOEKSTRA, PH.D. - Cross

1 cite there in paragraph 16.

03:27:21

2 A. To be fair, I can't see the screen any more.

3 MR. DODGE: Can we actually bring that back up?

4 BY MR. DODGE:

5 Q. Sorry. Not asking gotcha questions.

03:27:30

6 Is it fair to say that for each of these papers that  
7 you cite, they propose a method for measuring fraud or some  
8 kind of fraud?

9 A. Yeah. I think it's fair to say they propose, you know, a  
10 certain method to detect a certain type of fraud in a certain  
11 context. I think that's fair.

03:27:43

12 Q. Is it also fair to say that those papers apply their  
13 methods for measuring fraud or a specific kind of fraud and  
14 then find little evidence of that fraud?

15 A. That is what they report, yes.

03:27:59

16 Q. Your report does not propose any kind of methodology for  
17 detecting or measuring voter fraud. Fair to say?

18 A. Yeah. That's correct.

19 Q. Do you know who Professor Robert Stein is?

20 A. I've heard the name.

03:28:24

21 Q. Have you heard the name in connection with this case?

22 A. I want to say perhaps that professor is another witness,  
23 another expert on the defense's side.

24 Q. If Professor Stein had written that past evidence of voter  
25 fraud has been scant, would you have any reason to disagree

03:28:37

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 with him?

03:28:41

2 A. I mean, as with all of these things, I would want to  
3 evaluate on what basis he's saying that and I didn't evaluate  
4 that. I didn't talk to him. I didn't read his report.

5 Q. You wouldn't disagree with me that there are already  
6 existing systems and processes in place in U.S. elections for  
7 preventing election fraud?

03:28:58

8 A. Certainly there are some and, you know, arguably this --  
9 these bills introduce one more.

10 Q. You don't dispute that here in Arizona there are systems  
11 and processes already in place that help detect voter fraud?

03:29:15

12 A. Yeah. Again, you know, I'm aware that there are things to  
13 try to catch this to some extent.

14 Q. In your report you note that according to the U.S. census  
15 there are 450,000 non-citizen adults in Arizona.

03:29:35

16 A. Yes.

17 Q. And you criticize Dr. Minnite for not asking how difficult  
18 it would be for any of those 450,000 non-citizens to be able to  
19 vote. Is that fair to say?

20 A. That's correct.

03:29:53

21 Q. Your report doesn't make an opinion on how many of those  
22 people are in fact -- strike that question. It makes no  
23 census.

24 You don't do any analysis in your report suggesting  
25 there's currently a problem of non-citizens in Arizona

03:30:07

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 registering to vote as federal-only voters?

03:30:10

2 A. I don't know how many of the federal-only voters are  
3 citizens or not citizens. To my knowledge, none of us know.  
4 People can guess but none of us know.

5 I'm pointing out with the 450,000 number that you  
6 might be more worried about non-citizen voting in a world where  
7 you have lots of non-citizens living there rather than in a  
8 world where you didn't have many non-citizens living there.  
9 And in Arizona, there's a lot of non-citizens.

03:30:22

10 Q. I think you said this on direct with Mr. Langhofer. You  
11 don't make any claim in your report about the current  
12 prevalence of voting by non-citizens in Arizona. Is that fair?

03:30:38

13 A. That's fair. I don't know the prevalence. I don't think  
14 anyone knows the prevalence really.

15 Q. You would agree with me you don't identify any specific  
16 instances of a non-citizen voting in Arizona in your report?

03:30:58

17 A. I didn't attempt to do that.

18 Q. And you don't offer any opinion in your report about how  
19 frequently non-citizens might vote in future elections  
20 depending on whether these laws are put into effect?

03:31:10

21 A. So I do offer opinions on that. Can you ask your question  
22 one more time? I want to make sure I get it right.

23 Q. Sure. You don't offer any opinion in your report about  
24 the frequency of non-citizen voting in future elections in  
25 Arizona based on whether the laws here are upheld?

03:31:30

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. I mean, my view of that is in a world where you take one  
2 more step to make it more difficult, you know, you'll probably  
3 have less. How much less, I don't know. I'm not going to  
4 claim to know any magnitude; but I know if there's scope for an  
5 issue and you take a step that makes it harder, if anything,  
6 you would have less. I don't claim magnitude.

7 Q. My question is maybe a little narrower. You make no claim  
8 with respect to frequency of non-citizen voting in the future  
9 one way or the other based on the outcome of this case. Is  
10 that fair?

11 A. I mean, I thought I answered that. So now I'm -- I think  
12 when you take an additional step to prevent something from  
13 happening, if anything, we would expect less of it to happen in  
14 terms of lower frequency.

15 I'm just not making a claim on whether that goes from  
16 one so zero or a lot to zero or what because I don't know.

17 Q. You'll agree with me that you don't have any opinion on  
18 whether non-citizen reporting is common, rare, or nonexistent  
19 in Arizona?

20 A. That's true.

21 MR. DODGE: Can we pull up paragraph 18 of  
22 Dr. Hoekstra's report responding to Dr. Minnite?

23 Q. You write here that to the best of your knowledge, any one  
24 of the 450,000 individuals could vote in federal-only elections  
25 if they would sign the federal voter registration form and

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 falsely claim U.S. citizenship.

03:33:22

2 Did I get that write?

3 THE WITNESS: That's right and I think I would add  
4 the additional caveat that they not be in the ADOT system as  
5 being a non-citizen.

03:33:33

6 BY MR. DODGE:

7 Q. To do that they would have to commit a felony; right?

8 A. Yes.

9 Q. They would also have to commit perjury.

10 A. Yes.

03:33:43

11 Q. And if they were detected by the authorities, they would  
12 potentially face deportation?

13 A. Again, I don't know how the deportation stuff works but it  
14 wouldn't be good for them if they got detected. And it might  
15 lead to that. It might well be true.

03:33:58

16 Q. You agree there are already penalties in place for  
17 unlawfully registering to vote in Arizona?

18 A. Yes. And as we've talked about of course, you know,  
19 whether we know people respond to that depends not just on the  
20 penalty but also on the probability that they be caught. And  
21 penalties are known; probabilities are much harder to assess.

03:34:11

22 Q. You reviewed some deposition testimony from County  
23 Recorders in preparing your report. Is that fair?

24 A. Yes.

25 Q. Do you recall any of them indicating one way or the other

03:34:24

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 whether they believed the Federal-Form is susceptible to abuse  
2 by non-citizens?

03:34:27

3 A. I don't recall anything specifically about the  
4 non-citizens. It was clear that some of them believe that  
5 there were bad registration forms that were false and  
6 problematic but I don't recall them saying if it was about  
7 non-citizens or other things. It may well have been other  
8 things.

03:34:38

9 Q. Do you know if those claims were with respect to the  
10 federal form or the state form?

03:34:51

11 A. I don't recall as we sit here.

12 MR. DODGE: Staying on the topic of County Recorders,  
13 if we could pull up paragraph 20 to 26 or so of Dr. Hoekstra's  
14 report.

15 Q. You quote a few County Recorders, as you just indicated,  
16 expressing some concerns with inaccurate voter registration  
17 forms. Fair to say?

03:35:08

18 A. Yes.

19 Q. You didn't speak with any of these election officials in  
20 preparing your report; right?

03:35:17

21 A. That's correct. I only reviewed the transcripts.

22 Q. And you don't know whether any of these county officials  
23 testified to being aware of non-citizens registering to vote in  
24 their counties?

25 A. As in -- yes. So I don't remember if it was in the

03:35:30

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 deposition and if you're talking about what they did at trial,  
2 I definitely don't know what they said.

3 Q. I'll represent to you that none of the three you quote  
4 testified at this trial so their testimony is in their  
5 deposition transcript. So focusing just on the deposition  
6 transcripts, you cite in your report you're not sure whether  
7 any of them spoke to the issue of their awareness of  
8 non-citizens registering to vote within their jurisdictions?

9 A. Yeah. I don't recall. Those were really long transcripts  
10 and I'm not going to claim to recall what they said everywhere.

11 Q. You're not making any claim about the extent or frequency  
12 with which inaccurate registration forms are submitted to  
13 counties in Arizona. Is that fair to say?

14 A. I'm not attempting to put a number on it. I am merely  
15 pointing out that there are people on the front lines who  
16 clearly think there are some problems.

17 Q. Do you know how many County Recorders were deposed in this  
18 case?

19 A. If I know, it would have come from the deposition when  
20 someone told me and I don't remember.

21 Q. Do you know how many counties are in Arizona?

22 A. It was around 15. I forgot the exact number.

23 Q. You got it right.

24 A. All right.

25 Q. Did you review County Recorder deposition transcripts

United States District Court

MARK HOEKSTRA, PH.D. - Cross

besides the three you quote here?

A. I think I reviewed a fourth one and I didn't use anything from that one so I -- I would have to go look at my records to figure out what it was but I think there was one that I reviewed that I didn't end up quoting.

Q. So it's fair to say you're not aware of whether other County Recorders testified with respect to awareness of non-citizens voting in their jurisdictions?

A. That's correct.

Q. In paragraph 24 of your report you refer to an email from Ms. Stephanie Homewytewa in Pima County. Do you see that?

A. Yes.

Q. Did you speak with Ms. Homewytewa about this email?

A. I did not.

MR. DODGE: Let's go to paragraph 28 of Dr. Hoekstra's report now.

Q. You criticized Dr. Minnite for being overly reliant on conviction data. Is fair to say?

A. I think it's more than just convictions. It's also prosecutions and convictions. Yes.

Q. You write in this paragraph that even if counties in Arizona believe there's voter fraud, they don't need to report it for prosecution.

Do you see that?

A. Yes.

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. And you base that conclusion on a letter sent by the Chief 03:38:13  
2 of Staff at the Arizona State Senate?

3 A. I believe that's right.

4 Q. The Arizona State Senate isn't responsible for prosecuting  
5 election crimes in Arizona. We can agree? 03:38:22

6 A. Yes.

7 Q. Did you review any County Recorder testimony in this case  
8 to assess their practices for referring allegations of voter  
9 fraud to prosecutorial authorities?

10 A. No. 03:38:34

11 Q. Did you directly review any policies from County Recorder  
12 offices for referring allegations of voter fraud to  
13 prosecutors?

14 A. No.

15 Q. Is it fair to say you didn't review any records in this 03:38:50  
16 case from the Arizona Attorney General's Election Integrity  
17 Unit?

18 A. I believe that's correct, not that I recall.

19 Q. Very briefly today you spoke about the incidence of  
20 property crime. Do you remember that? 03:39:09

21 A. Yes.

22 Q. Is it fair to say that's the portion of your testimony in  
23 the Texas case where an objection was sustained and you weren't  
24 permitted to speak to it on the stand?

25 MR. LANGHOFER: Relevance. 03:39:18

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 THE WITNESS: Yes.

03:39:19

2 THE COURT: Overruled.

3 The answer "Yes" will stand.

4 BY MR. DODGE:

5 Q. You would agree with me that election crimes and property  
6 crimes are different in meaningful ways?

03:39:26

7 A. Yes.

8 Q. They have different incentives to commit them?

9 A. Presumably different incentives. You know, if they are  
10 different in terms of whether there's a victim, whether the  
11 victim knows about the crime. They are different in many ways,  
12 no doubt.

03:39:39

13 Q. You spoke a little bit with Mr. Langhofer about  
14 Dr. Minnite's definition of voter fraud. Do you recall that?

15 A. Yes.

03:40:00

16 Q. Prior to this litigation, you hadn't read any scholarship  
17 about the definition of voter fraud. Is that fair to say?

18 A. No, that's not fair to say. Because I wrote a paper on  
19 this topic and I would have read a lot of things as part of,  
20 you know, writing that paper and evaluating the evidence on  
21 voter fraud.

03:40:18

22 Q. You recall you were deposed in this matter?

23 A. Yes.

24 Q. You had Mr. Langhofer by your side when you were deposed.

25 A. Yes. Well, on Zoom I guess.

03:40:31

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. Metaphysically by your side. Do you recall if you were  
2 asked that question in your deposition?

3 A. No.

4 Q. Could we pull up Dr. Hoekstra's November 1, 2023,  
5 deposition transcript and go to page 113, lines 11 to 13.

6 You were asked: "Prior to being engaged in this  
7 matter, had you read any scholarship on the definition of voter  
8 fraud?"

9 "No, I don't think so."

10 Are you amending your answer today?

11 A. Yes. So certainly it would have been when I wrote that  
12 paper, which is probably six years ago, and so, you know, it  
13 wasn't at the front of my mind when you asked me that then but,  
14 you know, as I sit here today, like, did I read scholarship on  
15 voter fraud, yeah, because we were trying to speak to the  
16 prevalence of one form of voter fraud with that paper.

17 Q. I guess my question is a little narrower specifically  
18 about debates in the scholarly literature about how a person  
19 would define voter fraud. Had you read anything on that prior  
20 to being engaged in this matter?

21 A. Not that I recall. Yeah, probably not.

22 Q. And you don't offer any competing definition of voter  
23 fraud in your report responding to Dr. Minnite?

24 A. Well, I think a more inclusive better measure of voter  
25 fraud would be one -- well, let me rephrase.

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 I think a more useful measure for this case would not 03:41:55  
2 require criminal intent because that's not the only thing that  
3 legislators were attempting to prevent. I also think it would  
4 include fraud committed by -- you know, by third parties and  
5 those would be meaningful differences to -- so I'm essentially 03:42:13  
6 proposing an amended definition that -- I don't know that I  
7 would call it voter fraud but I would call it a measure of  
8 unlawful voting that is relevant for this case.

9 MR. DODGE: Can we pull up paragraph 47 of  
10 Dr. Hoekstra's report? 03:42:32

11 BY MR. DODGE:

12 Q. You write here that Dr. Minnite's definition of voter  
13 fraud, quote, improperly excludes any other form of election  
14 corruption committed by nonvoters.

15 Can you explain why election corruption committed by 03:42:51  
16 nonvoters should be included within the scope of voter fraud?

17 A. Well, the point is, you know, that she's limiting things  
18 to voter fraud so she's excluding things that come from third  
19 parties, things that would come from campaigns, things that  
20 would come from these registration drives organized by, you 03:43:10  
21 know, by third parties. Those are not voters. They are third  
22 parties that are, you know, may be registering people to vote  
23 and she's excluding that.

24 Q. You mentioned campaigns. Can you explain to the Court how  
25 H.B. 2492 or H.B. 2243 regulate what campaigns can do? 03:43:27

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. I mean, we all know what the statutes say. I've not  
2 thought about if I were going to be a third party how exactly  
3 would I engage in fraud. I'm not going to claim to know  
4 exactly how they would do that. But I don't know if you're  
5 trying to figure out is there election fraud on the system, I  
6 don't know why you limit it only to voters and not third  
7 parties.

8 Q. I mean, the gist of my question is this: You've  
9 criticized Dr. Minnite for only looking at voters and my  
10 question is, do you know if the laws in this case regulate  
11 anything beyond voters?

12 A. So there's a couple of different issues. There's the laws  
13 in this case and what they are doing. What her report is about  
14 is not just non-citizen voting. It's about fraud much more  
15 generally and in doing that, she's excluding this stuff and I  
16 think she ought not.

17 And it may very well be true, and I'm trying to see  
18 her thinking about that when they think about non-citizen  
19 voting in particular, maybe that's all by voters and maybe it's  
20 not by third parties. I'm not sure as I sit here would --  
21 could third parties be involved in this in some way. I don't  
22 know.

23 But her evidence is not just about non-citizen  
24 voting. It's about fraud more generally than that.

25 Q. Yeah. That's fair enough. I guess I mean even just

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 setting aside Dr. Minnite's report I'm curious if you do think  
2 these laws regulate nonvoter actors in the electoral process?

03:45:12

3 A. It could potentially impact what, you know, what third  
4 parties can do with respect to registering, say, non-citizens  
5 to vote.

03:45:28

6 Q. You don't offer any examples in your report of a  
7 non-citizen in Arizona who registered to vote without  
8 fraudulent intent. Fair to say?

9 A. I didn't discuss any one-off examples at all in my report.

10 MR. DODGE: Could we pull up paragraphs 52 through 54  
11 of Dr. Hoekstra's report?

03:45:44

12 BY MR. DODGE:

13 Q. And I'm glad to zoom in if you like.

14 A. Zooming in would be great.

15 Q. You quote a couple of legislators here who testified in  
16 the hearings regarding the bills at issue here. Fair?

03:45:57

17 A. Yes.

18 Q. But you would agree with me that you didn't  
19 comprehensively review the legislative history of the  
20 Challenged Laws?

03:46:16

21 A. So that's true. I attempted to find the transcript that  
22 Professor Minnite referred to when she cited these same things.  
23 I wasn't able to find them. I'm quoting them and presumably  
24 she thought -- I mean my understanding is she didn't testify to  
25 this part of her report. But she was making some accusations

03:46:31

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 about the people who supported this and I'm pointing out that  
2 she has no evidence of that.

03:46:36

3 Q. I'm just trying to understand the scope of what you looked  
4 at for your report and I think you answered my question which  
5 is that you didn't comprehensively look at the record it when  
6 came to the legislative debates over this bill?

03:46:48

7 A. That's correct. I looked at the things that she cited as  
8 evidence of essentially discriminatory intent by the supporters  
9 and I pointed out that it doesn't actually have any evidence of  
10 that.

03:47:05

11 Q. A moment ago you said something I think very closely to  
12 the effect of the kind of fraud -- the kind of behavior  
13 legislators were intending to prevent with this law. Do you  
14 recall that?

15 A. Sure. I think so.

03:47:17

16 Q. But you're not offering an opinion on what the legislators  
17 who voted for these laws, what their actual legislative intent  
18 was in enacting them?

19 A. I'm pointing out that if you take them at their word as  
20 quoted in Professor Minnite's report, they seem to be  
21 interested in preventing voting by non-citizens and they didn't  
22 seem to make any claim in what she quoted at least that they  
23 were only interested in stopping this if there was criminal  
24 intent or intent to corrupt the process.

03:47:33

25 Q. Fair to say, though, that your opinion is limited to your

03:47:55

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 review of those particular quotes cited in your report?

03:47:59

2 A. Yeah. I was responding to, again, these accusations by  
3 Professor Minnite about essentially the discriminatory intent  
4 of those legislators and that's -- yeah. So that's the  
5 evidence that I evaluated and I didn't see any evidence of  
6 discriminatory intent in there.

03:48:16

7 Q. You make no claim in your report that County Recorders in  
8 Arizona are themselves participating in any kind of electoral  
9 fraud. Fair?

10 A. I certainly hope not. I didn't make any accusations  
11 there. I didn't say anything about that. I hope they are not  
12 doing that.

03:48:30

13 Q. Let's briefly hopefully talk about some of the  
14 peer-reviewed literature that Dr. Minnite discusses in her  
15 report and that you respond to. You're aware of an article on  
16 the prevalence of voter fraud by Professor Jesse Richman. Is  
17 that fair to say?

03:48:44

18 A. I'm aware of it in the sense that I -- yeah, I looked  
19 through it briefly. I didn't spend lots of time thinking about  
20 it.

03:48:59

21 Q. And as a general matter, you're aware that it purported to  
22 find fairly substantial evidence of non-citizen voting in the  
23 2008 presidential election?

24 A. That's right.

25 Q. And you're aware that there was a fair amount of criticism

03:49:12

MARK HOEKSTRA, PH.D. - Cross

1 in the political science field of Professor Richman's article?

03:49:15

2 A. I'm only aware of that from counsel to some extent about  
3 the criticism about how, you know, wide it was or whatever. So  
4 the only thing I'm -- I have real good knowledge about is that  
5 the paper that critiqued it where, again, I didn't read it  
6 carefully but I am aware of it.

03:49:33

7 Q. Do you have any view of the critique offered in that  
8 rebuttal article you just alluded to?

9 A. No.

10 Q. You don't discuss Professor Richman's article in your  
11 report. Is that fair to say?

03:49:47

12 A. That's right.

13 Q. Are you aware of any other peer-reviewed article finding  
14 substantial levels of non-citizen voting in the United States?

15 A. Yeah, I'm not aware. To be clear, I'm not aware one way  
16 or the other. I don't know if there are things that say it's  
17 zero or things that says it's a lot.

03:50:02

18 Q. Fair enough.

19 Is there a reason you didn't discuss Professor  
20 Richman's paper in your report?

03:50:14

21 A. Yeah. We talked about this before and I was trying to  
22 figure out why you asked me so many questions about this in the  
23 deposition and then it occurred to me that this guy Richman is  
24 another expert for the defense.

25 I didn't have -- I didn't think of that as I was

03:50:28

MARK HOEKSTRA, PH.D. - Cross

1 reading it. Like I knew he was another expert but I didn't  
2 recognize the name as I saw it. I literally was responding to  
3 four reports in a short period of time. I was focusing on the  
4 stuff that Minnite was emphasizing and I was simply pointing  
5 out that she had a 330 plus word footnote where she talked  
6 about things she excluded. But I didn't have time to go dig  
7 into it.

8 Q. We agreed in your deposition that she actually spent  
9 some time above the line in her report discussing Professor  
10 Richman's paper at some length. Is that fair?

11 A. So at the very end of her report she talked a bit about  
12 that, yeah.

13 Q. Here's the gist of my question: In your report you look  
14 at I think a half-dozen or so papers that Professor Minnite  
15 relies upon in reaching her conclusion but here you have  
16 another article that reaches a contrary finding but you don't  
17 consider it at all in your report in evaluating the other  
18 papers she relies on.

19 And so I'm just curious why you chose not to discuss  
20 it in your report.

21 A. I mean, she didn't feature it heavily. It's like  
22 literally a thing -- again, so we made clear in the deposition  
23 the discussion. We can go pull up the discussion at the end of  
24 her report and exactly the context in which she's discussing  
25 about discussing that paper.

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 But as I read it, like I thought, well, here we have  
2 something that she's excluding that's not helpful. I'm going  
3 to point out that she's excluding this paper that's not helpful  
4 and I didn't have time to go dig into the weeds of, you know,  
5 can this thing be explained by measurement error or can it not.

03:51:48

03:52:02

6 And honestly I think we already -- well, I think  
7 tomorrow you're going to have this person testify and he can  
8 testify directly about this stuff presumably.

9 Q. Let's move on from Professor Richman and get to the papers  
10 you did discuss in your report.

03:52:18

11 MR. DODGE: Can we pull in section six at paragraph  
12 55 of professor Hoekstra's report?

13 Q. You offer some criticisms of how she relies on these  
14 papers. Fair to say?

15 A. Yes.

03:52:45

16 Q. But it's fair to say that in this section of your report,  
17 you only discuss two of those six papers; right? We can  
18 maybe --

19 A. Yeah. I'm trying to remember to make sure you're not  
20 misstating things.

03:52:59

21 Q. So let's look at -- well, let's look at 57 and 58. So  
22 here you're looking at one of the papers, the Goel paper, is  
23 that fair to say?

24 A. Right.

25 \\

MARK HOEKSTRA, PH.D. - Cross

1 MR. DODGE: And can we go to the next page? 03:53:16

2 Q. And look at 60 and 61. And so here you're talking about  
3 the Ahlquist, Mayer paper?

4 A. Yes.

5 Q. Did you discuss any of the other four papers Dr. Minnite 03:53:28  
6 relied upon in this section of your report?

7 A. I don't discuss their findings. I -- I think I quote from  
8 those studies in different parts of my report. I believe two  
9 of them were essentially about the accusations like the kind of  
10 wild accusations made by President Trump. I didn't spend time 03:53:47  
11 looking at those or I didn't spend much time.

12 Q. I'm going to skip ahead a bit. Let's talk about the voter  
13 confidence issue. You don't offer any report in your opinion  
14 about whether the laws here will positively or negatively  
15 impact voter confidence in Arizona. Is that fair to say? 03:54:24

16 A. Yeah. I don't know for sure what's going to happen on  
17 that. I'm not going to claim that voter confidence is going to  
18 get a lot better. The best I've done is introduced the one  
19 study which finds some evidence that when you made people aware  
20 of the safeguard, there were improvements in perceptions of 03:54:39  
21 election integrity.

22 Q. You didn't measure public awareness in Arizona of the  
23 provisions of law at issue in this litigation?

24 A. I did not.

25 Q. And you're not claiming to measure any change in voter 03:54:54

MARK HOEKSTRA, PH.D. - Cross

1 confidence from before and after the enactment of these laws? 03:54:57

2 A. That's correct. I'm not attempting to get at the causal  
3 impact of these laws on voter perceptions in Arizona.

4 Q. Just a few questions on that paper you discussed, the  
5 Endres and his co-author paper as you put it. 03:55:09

6 A. Right.

7 Q. You described that paper as --

8 MR. DODGE: Let's actually pull it is up. Can we  
9 pull up Defense Exhibit 948?

10 BY MR. DODGE: 03:55:31

11 Q. This is that study, fair?

12 A. Yes.

13 MR. DODGE: Can we just zoom in on abstract a bit and  
14 just take a quick moment to review it?

15 BY MR. DODGE: 03:56:00

16 Q. Good with the abstract?

17 A. Yes.

18 Q. According to the abstract, the researchers in this paper  
19 partner with an advocacy group to send postcards to voters in  
20 Virginia about the state's voter ID law. And then afterwards, 03:56:12  
21 they surveyed those voters to compare their attitudes relative  
22 to a control group.

23 Did I get that about right?

24 A. That's right. Yeah.

25 Q. And their conclusion is that the voters who received those 03:56:23

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 postcards received -- reported, rather, slightly higher degrees 03:56:26  
2 of voter confidence than the control group?

3 A. I think that's fair.

4 Q. It's fair to say then that the voters who did not get  
5 postcards had slightly lower confidence in the electoral system 03:56:38  
6 than the treatment group?

7 A. So it's going to be true the control group although I  
8 believe -- I'm trying to remember now exactly how they set it  
9 up, if the control group just got a postcard indicating there's  
10 an election. If we went to the results, I would remember that 03:56:54  
11 better. I don't want to misstate how they are defining  
12 control.

13 Q. That's fair. The Challenged Laws in this case, to your  
14 knowledge, don't require the State of Arizona to send postcards  
15 to voters describing the provisions of these laws? 03:57:08

16 A. Can you ask that one more time?

17 Q. Sure. So the laws at issue in this case, they don't have  
18 any provision telling the State of Arizona you have to send  
19 postcards to people across the state educating them on what's  
20 in this law? 03:57:24

21 A. Yeah. I don't know what the informational requirements  
22 are and how that information gets disseminated. Obviously this  
23 study is getting at the impact of information generally and  
24 that information could come from things other than postcards.

25 Q. Well, in the abstract it says they partnered with an 03:57:39

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 advocacy organization. Do you see that?

03:57:43

2 A. Yes.

3 Q. Do you know what advocacy organization was involved?

4 A. I want to say it was the Women's League of Voters.

5 Q. League of Women Voters sounds right to you?

03:57:53

6 A. League of Women Voters, that sounds better.

7 Q. Do you know anything about their reputation when it comes  
8 to working at elections?

9 A. Not that I'm willing to say under oath as I stand here.

10 Q. So you wouldn't know if perhaps they are a highly  
11 respected relatively nonpartisan organization when it comes to  
12 elections?

03:58:03

13 A. I suspect -- I suspect that's true because I don't know  
14 them to be partisan but I'm not -- I don't have a lot of  
15 knowledge about the organization.

03:58:14

16 Q. Are you aware of any similar advocacy organization in  
17 Arizona that's undertaken a public outreach campaign to educate  
18 voters in this state about the laws at issue here?

19 A. I don't know one way or the other.

20 Q. Let's assume for a moment the control group here didn't  
21 get postcards. In that case your average Arizona voter would  
22 be much more like the control group, right, as a person who  
23 didn't receive a postcard?

03:58:34

24 A. Yeah. I'm not sure that assumption is true. You know,  
25 again, we can look at the main results and I think we can

03:58:52

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 figure out exactly what the control group was.

03:58:55

2 But, you know -- but again it's -- if Arizona voters  
3 didn't get a postcard, they didn't get a postcard; but again,  
4 the point of this paper is to get at what is the impact of  
5 information. They are using postcards not because postcards  
6 are magical but it's because they can do an experiment with  
7 postcards that they can't do with TV or radio or other forms of  
8 disseminating information.

03:59:07

9 Q. You don't know what level of awareness the public in  
10 Arizona has with respect to these laws. Fair?

03:59:22

11 A. I don't know. I wouldn't be surprised if there's some  
12 confusion over them in part just because of the lawsuits and so  
13 on.

14 Q. Is it fair to say that perhaps most people in Arizona have  
15 never heard of these laws to begin with?

03:59:33

16 A. I don't know. I haven't studied that. I don't know.

17 MR. DODGE: Could we just Zoom in on PDF page two of  
18 this article, specifically the paragraph under Experimental  
19 Design. Could we highlight the sentence beginning "We obtained  
20 a random sample" ending in "voter per household"?

03:59:51

21 BY MR. DODGE:

22 Q. Just based on this excerpt, it's fair to say this study  
23 relied exclusively on people with land line telephones?

24 A. That's right.

25 \\

MARK HOEKSTRA, PH.D. - Cross

1 MR. DODGE: If we can pull up the next paragraph now. 04:00:09  
2 And can you highlight the portions beginning with "All 28,000  
3 subjects" through the end of the paragraph about the bottom  
4 two-thirds?

5 BY MR. DODGE: 04:00:22

6 Q. Based on this excerpt, it's fair to say that only 1.54  
7 percent of the 28,000 subjects ultimately responded and were  
8 included within the survey?

9 A. That's right. So as with many surveys, response rates are  
10 incomplete. They are low in general. This is, you know, maybe 04:00:37  
11 especially low and so the authors do things to try to deal with  
12 that.

13 Q. It's fair to say the authors acknowledge that the  
14 individuals who they did count tended to be older and tended to  
15 vote at higher rates than the full sample? 04:00:49

16 A. I don't recall but that may well be true.

17 Q. Just a couple stray questions and I'll finish up. You  
18 gave some testimony on direct about the differences between  
19 naturalized citizens and citizens. Do you recall that?

20 A. Yes. 04:01:06

21 Q. And, I mean, you said that naturalized citizens do well.  
22 They are successful. Is that fair?

23 A. Yeah. They are more advantaged on average compared to,  
24 you know, citizens by birth.

25 Q. Naturalized citizens start in this country as 04:01:18

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 non-citizens. Fair?

04:01:23

2 A. Yes.

3 Q. Would you say it's fair to -- strike that.

4 It's fair to say that a naturalized citizen in this  
5 country would also be very different from a non-citizen who  
6 never naturalizes; right?

04:01:30

7 A. I mean, they may well be. So you're asking me can  
8 naturalized citizens be different from non-citizens?

9 Q. Yeah. Is it possible they would be different in important  
10 ways in terms of their age, socioeconomic level, their races,  
11 these other key characteristics?

04:01:51

12 A. Certainly that's possible for them to be different in lots  
13 of ways.

14 Q. Would you say it's likely they are different in important  
15 ways?

04:02:01

16 A. I mean, I would want -- you could look at the data and you  
17 would know for sure. I mean, they may well be different. I'll  
18 say that.

19 Q. It was just striking to me that you noted that naturalized  
20 citizens are appreciably different from citizens and I was  
21 wondering if the same was true relative to non-citizens.

04:02:13

22 A. Yeah, the reason I'm focused on citizens here is because,  
23 you know, citizens are the ones who can vote legally. And so  
24 if we're thinking about the people who are impacted, like these  
25 are the people we want to be comparing.

04:02:30

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. That's fair. That's fair. I was curious about that.

04:02:32

2 Final questions. You mentioned a couple of polls  
3 nationally about public concern about the integrity of the  
4 electoral system.

5 A. Yes.

04:02:44

6 Q. Those were national polls?

7 A. Yes.

8 Q. They were conducted prior to the enactment of these laws?

9 A. Yes. I think 2016 and 2020 I believe were the dates of  
10 those.

04:02:55

11 Q. And you don't cite any polls specific to Arizona?

12 A. Yeah. I mean, if there were, I didn't find it. To my  
13 knowledge, most of these polls are doing things nationally but  
14 if there's one that is specific to Arizona, I missed it.

15 Q. You mentioned in direct that you thought there were  
16 700,000 people in Arizona who would be concerned or have doubts  
17 about the integrity of the electoral system. Do you recall  
18 that?

04:03:10

19 A. I believe the 700,000 number was the number, the estimated  
20 number of registered voters in Arizona who believe there is  
21 a -- that non-citizen voting is very common. I believe that's  
22 the correct characterization of that.

04:03:25

23 Q. Correct me if I'm wrong. You got that number by taking  
24 those national survey results and just applying them to the  
25 population of Arizona; right?

04:03:44

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. Correct. So it's the fraction of people in that survey  
2 who said they believe there was a great deal of non-citizen  
3 voting and I think -- I can probably back this out. I think it  
4 was 17 percent. You multiply 17 percent by 4.2 million I  
5 believe registered voters in Arizona and you come up with that  
6 number.

7 Q. But it's fair to say you didn't do any analysis -- focus  
8 specifically on the attitudes of Arizonans with respect to  
9 public faith in the electoral system?

10 A. That's correct. Again, I think, you know, given that  
11 there was clearly support for these laws politically, I think  
12 in general, it's reasonable to believe that those numbers are  
13 probably conservative, but obviously I don't know the true  
14 numbers because we didn't do the survey.

15 MR. DODGE: I pass the witness.

16 MS. KANTOR COHEN: Michelle Kantor Cohen for Poder  
17 Latinx plaintiffs.

18 **CROSS - EXAMINATION**

19 BY MS. KANTOR COHEN:

20 Q. Dr. Hoekstra, in these questions I'll refer to your report  
21 in response to Dr. McDonald which has been marked as DX 901.

22 In this report, similar to your rebuttal to  
23 Dr. Minnite, you say that your analysis in the case is based on  
24 my knowledge and experience as an active research economist who  
25 is well versed in the frontier empirical methods used in causal

MARK HOEKSTRA, PH.D. - Cross

1 analyses; correct?

04:05:41

2 A. Yes.

3 Q. You testified on direct we're trying to calculate marginal  
4 costs in the context of voting.

5 Do you remember that?

04:05:48

6 A. I remember talking about marginal costs in the context of  
7 voting, yes.

8 Q. You didn't attempt to calculate costs of voting in your  
9 rebuttal here; correct?

10 A. Not directly. I'm speaking -- I am commenting on evidence  
11 and the impact of these increases in expected marginal costs on  
12 voting which are relevant for assessing the magnitude of that  
13 but I'm not directly trying to put a number on that.

04:05:59

14 Q. You're not presenting any quantitative analysis of the  
15 cost of voting as part of your response to Dr. McDonald;  
16 correct?

04:06:16

17 A. I did not do my own independent analysis of that. I'm  
18 relying on the literature.

19 Q. Let's talk about costs a little bit. If the law changes  
20 things for some people because they will have to show  
21 documentation and it doesn't change things for others, there's  
22 an additional voting cost on the group required to show  
23 documents; right?

04:06:32

24 A. Arguably, yes.

25 Q. If someone had to go update their citizenship status in

04:06:49

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 person versus someone who did not have to do that, there would  
2 also be an additional voting cost that that person would have  
3 to undertake versus someone who did not have to go in person to  
4 do that; right?

04:06:53

5 A. Yeah. That's true and certainly what I think the authors  
6 of many of these studies would say is these laws could have  
7 indirect effects on other people as well. And not just on  
8 positive population you're talking about but what you said is  
9 true.

04:07:06

10 Q. If a citizen was not able to vote in an election while  
11 their documentary proof of citizenship was being sorted out,  
12 you agree that would be a cost of voting; right?

04:07:20

13 A. Yeah. That would be a cost of voting that were  
14 sufficiently high to prevent voting from happening.

15 Q. You're aware that the voter registration form is signed  
16 under penalty of perjury; right?

04:07:48

17 A. Yes.

18 Q. And when you wrote your report, you didn't know the  
19 specific penalties for intentionally registering to vote as a  
20 non-citizen in Arizona; correct?

04:08:02

21 A. Yeah, I did not look into that, like either what's in the  
22 statute or in practice what the penalties are that get laid  
23 out.

24 Q. And when you wrote your report, you were not aware of what  
25 the immigration-related consequences for registering to vote as

04:08:13

MARK HOEKSTRA, PH.D. - Cross

1 a non-citizen would be; right?

04:08:18

2 A. That's true. Well, let me rephrase. So it's true I  
3 didn't know exactly what the consequences are. I can imagine  
4 if you commit a felony and you're convicted of a felony, it's  
5 not surprising to me that that could have implications for  
6 whether you can remain in the country.

04:08:34

7 Q. Let's take a moment to talk about the sources you  
8 consulted in preparing your report.

9 A. Okay.

10 Q. In writing your report, you did not review the testimony  
11 of any representatives of the Secretary of State's office in  
12 this case; correct?

04:08:54

13 A. That's correct I think.

14 Q. And in writing your report, other than a few transcripts  
15 cited in your response to Dr. Minnite's report, you did not  
16 review the testimony of additional County Recorders in this  
17 case; right?

04:09:12

18 A. Yeah. I believe I cited three and I think from memory, I  
19 think I looked over a fourth and I think that was the extent of  
20 it.

04:09:27

21 Q. You did not review testimony of the Arizona Department of  
22 Transportation in this case; correct?

23 A. That's correct.

24 Q. You did not review testimony of United States Citizenship  
25 and Immigration Services representatives in this case; right?

04:09:38

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. That's correct.

04:09:41

2 Q. And you didn't review the Arizona Election Procedures  
3 Manual in drafting your reports; correct?

4 A. That's correct.

5 Q. I believe you stated earlier that Professor McDonald's  
6 analysis suggests that the Challenged Laws would reduce voting  
7 more for White people than it would for minorities?

04:09:57

8 A. In terms of -- well, yeah. So I would like to rephrase.  
9 So if we're thinking about federal-only voters, the people that  
10 are most directly by this, they are -- per his analysis, there  
11 are more White people in that group than non-White people in  
12 that group.

04:10:18

13 Q. Let's look at Dr. McDonald's Table 5 which is PX 338,  
14 which is already in evidence.

15 So you would agree that according to Table 5 Hispanic  
16 individuals comprise a higher percentage of federal-only voters  
17 than they do active registered voters; right?

04:10:36

18 A. Can you ask that one more time?

19 Q. Sure. You would agree that Hispanic individuals,  
20 according to this table, comprise a higher percentage of  
21 federal-only voters than the percentage of active registered  
22 voters; right?

04:10:49

23 A. That's correct.

24 Q. And you would agree that Asian American Pacific Islander  
25 individuals, according to this table, comprise a higher

04:11:02

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 percentage of federal-only voters than they do active  
2 registered voters; right?

04:11:06

3 A. Yeah. It's 2.5 versus 2.2 percent so it's a small  
4 difference and I don't know how much to make of that. But that  
5 number 2.5 is greater than 2.2.

04:11:17

6 Q. You criticize Dr. McDonald's use of active registered  
7 voters as an appropriate benchmark for federal-only voters;  
8 right?

9 A. So it's true I criticize it for it. I also criticize it  
10 for these other two groups, the groups with suspended or  
11 canceled registrations.

04:11:35

12 Q. And you offer the Arizona population as your benchmark;  
13 correct?

14 A. I wouldn't call it my benchmark. I would say I offered up  
15 as a benchmark that would be more appropriate to the extent  
16 that you believe that the -- that the people in those three  
17 groups are non-citizens rather than citizens.

04:11:49

18 Q. Including federal-only voters; right?

19 A. Yes, for all three of those groups.

20 Q. The Arizona State population includes children; correct?

04:12:05

21 A. Correct, and you could do the -- and I'm sure on rebuttal  
22 you could have done the same thing excluding children.

23 Q. But in your report you included children?

24 A. I included children in the report, yeah, whole population.

25 Q. You're aware children under 18 make up more than 20

04:12:21

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 percent of Arizona's population according to the census?

04:12:24

2 A. Sure. And to the extent this matters, it's determined by,  
3 you know, which people have more kids and so on.

4 Q. So your benchmark includes at least 20 percent of the  
5 population who can't vote; right?

04:12:36

6 A. Population includes lots of people who can't vote  
7 including non-citizens as well.

8 Q. If the federal-only voters were all citizens, you would  
9 agree that the appropriate benchmark for them would be active  
10 registered voters; right?

04:12:54

11 A. I would agree that would be the way to assess whether  
12 things are proportional or disproportional. Again, I would  
13 emphasize that if you want to believe that this law was passed  
14 with discriminatory intent, you would have to believe that the  
15 legislature was willing to disenfranchise or inconvenience more  
16 White people than non-White people. And maybe -- you can  
17 believe. Anyone can believe that if you want to but that's --  
18 you would have to believe.

04:13:12

19 Q. But again, if the federal-only voters were all citizens,  
20 you would agree that the appropriate benchmark would be active  
21 registered voters?

04:13:24

22 A. I agree it's the appropriate benchmark for assessing  
23 proportional/disproportional effects. What I'm disputing is  
24 whether or not that's the right way to think about evidence of  
25 discriminatory intent.

04:13:41

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. You haven't conducted any analysis in your report as to 04:13:45  
2 whether non-citizens are equally likely to apply to register to  
3 vote as citizens, have you?

4 A. Can you ask that again?

5 Q. Sure. You haven't conducted any analysis as to whether 04:13:55  
6 non-citizens are equally likely to register to vote as  
7 citizens, have you?

8 A. I have not.

9 Q. Let's turn to another article you relied on in your  
10 testimony. 04:14:14

11 MS. KANTOR COHEN: Can we please pull back up DX 950?

12 BY MS. KANTOR COHEN:

13 Q. And you relied on this article to support your conclusions  
14 regarding negative interactions with law enforcement?

15 A. Yes. 04:14:28

16 Q. When you wrote your report, you had not read this article  
17 in its entirety; correct?

18 A. I had not read it super carefully, that's true.

19 Q. Let's look at page 934, the first full paragraph.

20 The pertinent issue here was actually abandoned 04:14:54  
21 before the election, wasn't it?

22 A. Yes. I pointed that out earlier when I testified about  
23 this.

24 Q. And the challenged voters got a letter from election  
25 officials that their rights were restored and they could vote 04:15:06

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 even if they hadn't responded to the challenge; right?

04:15:08

2 A. That's correct, as we talked about earlier.

3 Q. So all of these challenged citizens were, in fact, allowed  
4 to vote, even those who did not respond to the challenge or  
5 provide DPOC; right?

04:15:20

6 A. Correct, as we talked about earlier.

7 MS. KANTOR COHEN: Let's look at page 952, please.

8 BY MS. KANTOR COHEN:

9 Q. The authors realize that the fact the purge was halted  
10 before the election had significant implications for  
11 interpreting the study; right?

04:15:42

12 A. Yes. They talk about that. If you can highlight in --  
13 blow up the particular reference that you're referring to, that  
14 would be helpful.

15 Q. Sure. It's the sentence beginning, "More importantly,  
16 unlike other systemic purges." It says: More importantly,  
17 unlike other systematic purges, the targeting of potential  
18 non-citizens in Florida was halted before the election. This  
19 has significant implications for interpreting our estimated  
20 treatment effect."

04:15:57

04:16:28

21 Do you see that?

22 A. Yes.

23 Q. So the authors are conveying that this treatment effect  
24 has to be interpreted in light of the fact that the purge  
25 itself was halted; right?

04:16:34

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. Yes. They are picking up the impact of both of these 04:16:36  
2 letters, both the one that says we're challenging your  
3 registration and I think roughly half of the people then went  
4 through with proving citizenship and then obviously the second  
5 letter as well that said just kidding. Everybody here can vote 04:16:50  
6 regardless of whether or not you did that.

7 MS. KANTOR COHEN: Can we look at the next two  
8 sentences, please.

9 BY MS. KANTOR COHEN:

10 Q. And the authors write, "As it is unlikely that the aborted 04:17:05  
11 purge demobilized any potential voters, our estimates only  
12 capture the positive changes in vote propensity we would expect  
13 to observe for some had the purge been conducted. In the  
14 absence of a halt to the process" --

15 THE COURT: Are you trying to test the speed of the 04:17:22  
16 court reporter?

17 MS. KANTOR COHEN: I apologize.

18 THE COURT: I think she's probably passing the test  
19 but really at 4:20 in the afternoon, it's not really fair to  
20 talk as fast as you possibly can. 04:17:30

21 BY MS. KANTOR COHEN:

22 Q. The second sentence there, "In the absence of a halt to  
23 the process, the increased costs would have undoubtedly kept  
24 some previously registered individuals from voting."

25 You didn't actually -- 04:17:43

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. I'm trying to find where you're reading.

04:17:45

2 Q. I'm sorry. It's the next two sentences after the first  
3 one we looked at. So it's the third and fourth sentences at  
4 the top of the page.

5 A. Okay. Beginning with "In the absence of"?

04:17:57

6 Q. "As it is unlikely."

7 A. Got it.

8 Q. Got it. You didn't --

9 THE COURT: Hold on. Let him read it.

10 Let us know when you're finished.

04:18:11

11 THE WITNESS: Just give me a second.

12 Okay. I've read it.

13 BY MS. KANTOR COHEN:

14 Q. You didn't actually discuss this language in your report,  
15 did you?

04:18:28

16 A. So that's correct. I also disagree with part of what they  
17 are saying here. Part of what they are saying is not true. So  
18 it's not going to be true that they are only capturing, you  
19 know, positive changes in voting propensity.

20 To the extent that Professor McDonald was right there  
21 and that this interaction with law enforcement, you know, has  
22 this, like, negative impact on you, which is what he's  
23 asserting in his report, if that were true, then you would  
24 expect a lot of these people to perhaps become less likely to  
25 vote and you don't see that. In fact, you see the opposite.

04:18:41

04:18:58

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. All right. Let's move to another study that you discussed 04:19:09  
2 which was DX 951, Citrin and Green. And you talked about this  
3 earlier in your testimony for the point about voter ID measures  
4 that increased turnout in your view; right?

5 A. Yes. 04:19:29

6 Q. And before you read -- sorry. Excuse me.

7 Before you wrote your report, you didn't read this in  
8 its entirety; correct?

9 A. I mean, again, I looked through things to try to figure  
10 out whether they were good. Did I read every paragraph, every 04:19:41  
11 word? Probably not.

12 Q. This was a controlled experiment; correct?

13 A. Yes.

14 Q. This treatment was providing information about the voter  
15 ID requirement; right? 04:19:52

16 A. Yes.

17 Q. Both the treatment and the control groups were subject to  
18 the voter ID requirement in the study; right?

19 A. Yes, although they might not have been aware of it and  
20 that's why this study is useful. 04:20:04

21 Q. But they both had to show -- both the control group and  
22 the treatment group had to show their ID; right?

23 A. That's true.

24 Q. So the study didn't observe the impact of the voter ID  
25 requirement on the treatment group; right? 04:20:19

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. They are looking at the impact of, essentially, knowledge  
2 about that ID requirement as well as whatever it is that they  
3 were queuing up in the messages that they sent out.

4 Q. But the given here is that all voters have the ID  
5 requirement applied to them in the study; right?

6 A. That's -- so that's true. All voters have the ID  
7 requirement. Some of them, you know, the voting requirement  
8 was made salient to them and some of them it wasn't. And  
9 that's relevant especially when we start thinking about all of  
10 those other studies that we look at, like, why are you seeing  
11 positive effects sometimes?

12 Well, for whatever reason, it seems like being made  
13 aware of these things can sometimes cause increases in turnout.

14 Q. And in your deposition you guessed that H.B. 2492 or 2243  
15 came with a voter education requirement. Do you remember that?

16 A. Yeah. My -- sure. Most of the time these things come  
17 with some educational requirement. I didn't claim particular  
18 knowledge I don't think about Arizona.

19 Q. So let's pull up DX 952, please. It's entitled "Strict ID  
20 Laws Don't Stop Voters" and you discussed this on your direct  
21 testimony; right?

22 A. Yes.

23 Q. And this is not a controlled experiment; right?

24 A. That's correct. It's difference-in-differences which  
25 we've talked about.

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. And let's look at the abstract. It says at the end:  
2 Strict ID requirements have no effect on fraud, actual or  
3 perceived. Overall, our findings suggest that efforts to  
4 improve elections may be better directed at other reforms.

5 You don't -- do you see where it says that?

6 A. Yes. Yes.

7 Q. You don't discuss this language in your report; right?

8 A. That's correct.

9 Q. Isn't this directly contrary to your point?

10 A. In what way is it directly contrary to my point?

11 Q. It does not -- it states that strict ID requirements have  
12 no effect on fraud, actual our perceived; correct?

13 A. Correct. And I'm not asserting that as a result of these  
14 laws that voter perception will definitely be improved. And as  
15 we've talked about in the deposition, I think one challenge in  
16 a paper like this is to overcome the fact that not everyone is  
17 aware of the laws.

18 And so if you want to look at the impacts on voting,  
19 well, like you're subject to the law regardless of whether you  
20 know it or not. When you want to look at the impact on  
21 perceptions, you really want to look -- you really want people  
22 to know about the law, because if they are not aware the law is  
23 in place, then you're not going to -- you're not going to find  
24 any difference in perceptions even if, you know, knowledge of  
25 the law would impact perceptions. And I think that's a

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MARK HOEKSTRA, PH.D. - Cross

1 challenge in this context.

04:23:03

2 The other challenge is when you look at the estimates  
3 for actual fraud here, I mean, those --

4 Q. I didn't ask you a question about that.

5 A. You asked me a question about the sentence and why I  
6 didn't include it and I'm telling you now why I'm not including  
7 it.

04:23:14

8 If you look at the estimates on actual fraud, what  
9 you'll see is, like, they can't reject the actual fraud went to  
10 zero. Like their estimates are so imprecise on actual fraud  
11 and, again, it's actual measured fraud. I think on one measure  
12 they can't reject, like, a 50 percent reduction. The other  
13 one, literally, they can't reject if it went to zero.

04:23:27

14 And so it's, like -- I don't blame them for doing it  
15 but it's not a very useful result.

04:23:43

16 Q. So it's indeterminate?

17 A. I think their evidence on actual fraud is so imprecise  
18 that's not very useful.

19 Q. So let's look at -- it's page 2618 in this document which  
20 is PDF page four I believe.

04:24:06

21 Can you please read the last two sentences to  
22 yourself beginning -- of the first full paragraph beginning  
23 "However, the laws increase."

24 So we were talking about --

25 THE COURT: Well, could you let him read it first?

04:24:27

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 MS. KANTOR COHEN: Excuse me. 04:24:30

2 THE WITNESS: Okay. 'ready.

3 BY MS. KANTOR COHEN:

4 Q. You've said that one of the things that come with the law  
5 is the mobilization efforts that come with campaigns; right? 04:24:38

6 A. Yeah. Lots of things can come with the laws.  
7 Mobilization efforts could be one of those things. Obviously,  
8 knowledge about the laws comes with those things. Potentially  
9 changes in perceptions of election integrity, possibly anger  
10 from claims of voter suppression, lots of things. This is one 04:24:53  
11 of them.

12 Q. So you agree that this article finds that these laws  
13 increase the likelihood that campaigns contact non-White  
14 voters; right?

15 A. So that's literally what it says right there. I would 04:25:12  
16 like to look at the table as well if I can just to make sure  
17 that they are determining that the right way.

18 Q. Tell us when you get to the table that you want to look  
19 at.

20 A. I think it's going to be after this I believe. Okay, 04:26:33  
21 maybe before. There it is.

22 Yeah, that's right. Okay. I see the estimate.

23 Q. So just to --

24 A. And their characterization of it is fair. I just wanted  
25 to check that their characterization of it was fair and that 04:26:56

MARK HOEKSTRA, PH.D. - Cross

1 you weren't talking about some suggestive result.

04:27:00

2 Q. Sure. Just to go back to my question, you agree that this  
3 article finds that these laws increase the likelihood that  
4 campaigns contact non-White voters; right?

5 A. That's right.

04:27:09

6 Q. And these efforts might have offset -- they conclude these  
7 efforts might have offset direct negative effects of the laws'  
8 requirements itself; right?

9 A. That's right. And the language they use is I think  
10 appropriately cautious when they talk about this because they  
11 don't know, for example, were those people who were contacted?  
12 Are those the additional people who voted or not? And really  
13 they are trying to explain this result, especially for  
14 Hispanics, that Hispanics, after these laws, were more likely  
15 to vote and they are trying to figure out what are the  
16 potential explanations for that.

04:27:22

04:27:42

17 Q. So talking about the mobilization campaigns, groups or  
18 campaigns responding to these laws have to spend money to do  
19 that mobilization; right? You're an economist.

20 A. So I presume they are spending money to do that.

04:27:56

21 I want to say one more thing on that. I think  
22 there's two interpretations for those mobilization campaigns.  
23 One is that maybe they are trying to offset this stuff and they  
24 are -- legitimately think there's negative effects and they are  
25 going to try to offset it. The other is that they see an

04:28:26

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 opportunity to get people -- to get their base motivated by  
2 making voter suppression arguments and all of those things.  
3 And I don't claim to know which of those is true but I think  
4 they are both possible. And for someone trying to win an  
5 election, you know, both would be rational, including the  
6 second thing.

7 Q. But the authors of this study that you cited in your  
8 testimony are concluding that the mobilization efforts might  
9 have upset small direct negative effects on the participation  
10 of ethnic minorities; right? That's their conclusion?

11 A. Yeah. And I think "might have" is the appropriate  
12 language for that.

13 Q. Okay. So let's pull up DX 944, please. And this was the  
14 article you discussed about the Medicaid documentation  
15 requirement; right?

16 A. Yes.

17 Q. This constitution noted that about 30 percent of  
18 non-citizens were actually eligible for Medicaid; right?

19 A. I don't remember the number offhand but there was a chunk.  
20 That's true.

21 Q. We can look at it. Does that refresh your recollection?

22 A. Yes.

23 Q. And I think we agreed that the study, the authors don't  
24 know what the impact was on non-citizens who were not eligible  
25 for Medicaid versus citizens who were, in fact, eligible for

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Medicaid because they can't distinguish between those two sets  
2 of people in their data; right?

04:29:50

3 A. I don't think you said that right. I think it's true that  
4 they can't distinguish between the affects on non-citizens  
5 eligible for Medicaid and effects on non-citizens not eligible  
6 for Medicaid. They distinguish between non-citizens generally  
7 and citizens.

04:30:06

8 Q. Right. But in terms of looking at non-citizens on one  
9 hand who are eligible versus non-citizens who are not  
10 eligible --

04:30:23

11 A. They don't observe that and so they can speak to the  
12 difference between citizens and non-citizens, which is arguably  
13 most relevant for voting, because non-citizens are not eligible  
14 to vote even though some of them apparently are eligible for  
15 Medicaid.

04:30:38

16 Q. But we agree that -- and I believe we agreed in your  
17 deposition that this study can't really tell us anything at all  
18 about the impacts of the DPOC policy on the specific population  
19 of non-citizens who, in fact, remained eligible for Medicaid;  
20 right?

04:30:55

21 A. I don't think -- I don't think what you said is true and  
22 it was a long question so you might need to ask it again.

23 Q. So since there's no information on eligible for the  
24 benefit non-citizens versus ineligible for the benefit  
25 non-citizens, the study doesn't really tell us anything about

04:31:14

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 the impacts of the policy on non-citizens who remained eligible 04:31:19  
2 for the benefit; right?

3 THE COURT: I am completely and totally confused.

4 MS. KANTOR COHEN: I'll move on Your Honor.

5 BY MS. KANTOR COHEN: 04:31:38

6 Q. For a Medicaid applicant, there's some kind of clear  
7 financial or health benefit of obtaining Medicaid coverage;  
8 right?

9 A. Yes.

10 Q. That coverage could have the benefit of thousands of 04:31:49  
11 dollars in health care coverage for a beneficiary; right?

12 A. I don't know what the number is. I'm not going to claim  
13 to know what the number is but clearly there's a benefit.

14 Insurance is a helpful good thing that people value.

15 Q. In your response to Dr. McDonald's opinion about the 04:32:10  
16 impacts of negative interactions with Government, you opine  
17 that Dr. McDonald only considered studies that discussed voting  
18 behavior of people who have actually done something wrong. Is  
19 that a fair characterization of your opinion?

20 A. I think it's fair. Certainly most of them have done 04:32:28  
21 something wrong and it certainly includes a lot people if not  
22 the vast majority have done something wrong.

23 MS. KANTOR COHEN: Can we pull up Exhibit 526,  
24 please.

25 \\

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 BY MS. KANTOR COHEN:

04:32:49

2 Q. And this is one of the articles cited by Dr. McDonald that  
3 you referenced in your report in your testimony; right?

4 A. That's right.

5 Q. Even if people were not arrested, this study found the  
6 probability of voting declined; right?

04:32:58

7 A. I don't recall what all of this paper found but this is  
8 the paper where I think there were serious issues with making  
9 causal statements where they, frankly, don't have a great  
10 design for assessing causality here and they are doing a few  
11 different things. But I don't know that it's fair to give it a  
12 causal interpretation.

04:33:16

13 MS. KANTOR COHEN: Can we look at page 11. It's the  
14 second column about ten or so lines down.

15 BY MS. KANTOR COHEN:

04:33:38

16 Q. So the finding of this study is that the probability of  
17 voting declined eight percent for those who had been stopped  
18 and questioned by the police; right?

19 A. Yeah. That's a descriptive, in fact, and the question, of  
20 course, is whether it's appropriate to say that that decline  
21 happened because of that interaction and that's where I think  
22 there's problems.

04:33:50

23 Q. This afternoon with Mr. Langhofer you discussed three  
24 articles that Dr. McDonald cited and you stated that none of  
25 the articles he cited had to do with changes to voter

04:34:05

MARK HOEKSTRA, PH.D. - Cross

1 registration rules. Do you remember that?

04:34:08

2 A. Not really, no.

3 Q. It was about 2:20.

4 A. Yeah. What was this about?

5 Q. With respect to impact on voting propensity, that

04:34:20

6 Dr. McDonald cited that you discussed three articles only and  
7 you said none of them were about voter registration?

8 A. What was his hypothesis that he was using these as support  
9 for? If you tell me that, I think I'll remember. But he cited  
10 a lot of stuff.

04:34:42

11 Q. So this was in reference to the long-term impacts of the  
12 cost -- sorry. That there's a body of research that increasing  
13 the cost of voter registration decreases voter turnout rates.

14 Do you recall that?

15 A. No, but we can talk about the papers and you can ask your  
16 question and maybe I can answer it.

04:35:06

17 Q. Let's look at Dr. McDonald's report, which is PX 332.  
18 Let's look at footnote 67, please.

19 Dr. McDonald identified seven articles in footnote 67  
20 of his report. So I wanted to look at those and ask you about  
21 what you were discussing in your testimony.

04:35:38

22 You didn't discuss the book by Rosenstone and  
23 Wolfinger by Yale University Press; right?

24 A. That's correct.

25 Q. And you didn't discuss the Staci Rhine article in

04:35:57

MARK HOEKSTRA, PH.D. - Cross

1 *Political Behavior*; correct?

04:36:00

2 A. So this is footnote 68. Can I see what they were citing?

3 Q. I'm sorry. It should be 67, please.

4 A. Yeah, but there's --

5 Q. I'm sorry. It is 68 of the report. Sorry about that.

04:36:16

6 Just to be clear, we're looking at footnote 68 of PX 332.

7 So in your report, you did not discuss the Staci  
8 Rhine article in *Political Behavior*; right?

9 A. Before we look -- let me see what he said before he cited  
10 footnote 68 because he's backing -- he's trying to support  
11 something.

04:36:38

12 Q. I'm talking about the body of scholarly research that  
13 Dr. McDonald discussed in his testimony.

14 A. I got it. I got it. I understand.

15 Q. Thank you.

04:36:51

16 I don't think you answered yet. Just to make sure,  
17 you did not discuss the Staci Rhine article in *Political*  
18 *Behavior* in your testimony; correct?

19 A. Correct.

20 Q. You did not discuss the Mitchell and Wlezien article in  
21 *Political Behavior*; right?

04:37:04

22 A. That's correct.

23 Q. You didn't discuss Highton's article on voter registration  
24 even though you did cite Highton on voter ID; correct?

25 A. I mean, I believe it's a different paper but that is

04:37:19

MARK HOEKSTRA, PH.D. - Cross

1 correct. I don't believe I cited this particular paper by that 04:37:22  
2 author.

3 Q. And you didn't cite Leighley and Nagler's book published  
4 by Princeton University Press; correct?

5 A. That's correct. 04:37:32

6 Q. And you did not cite either of Dr. McDonald's two articles  
7 on the impact of improved access to voter registration on  
8 turnout; correct?

9 A. That's correct.

10 MS. KANTOR COHEN: I'm going to take a moment to 04:37:42  
11 confer with counsel, Your Honor.

12 (Counsel confer.)

13 MS. KANTOR COHEN: I'm going to pass the witness.

14 THE COURT: Thank you.

15 **CROSS - EXAMINATION** 04:37:48

16 BY MR. BABBITT:

17 Q. Good afternoon, Professor Hoekstra. Chris Babbitt for the  
18 DNC and the Arizona Democratic Party.

19 I'll be asking you about your rebuttal to Professor  
20 Burch this afternoon. 04:38:21

21 And I would like to pull up both your -- the  
22 conclusion of your report and Professor Burch's report which I  
23 believe are PX 328 and DX 900.

24 And if we could go to page 26 of Professor Burch's  
25 report and page 23 of Professor Hoekstra's report. Maybe 22. 04:38:47

MARK HOEKSTRA, PH.D. - Cross

1 We can start there.

04:38:56

2 So Professor Hoekstra, I just want to orient you on  
3 Professor Burch's ultimate conclusion which is stated in the  
4 final two sentences of -- rather final sentence of her report  
5 on the left side of the screen. If you could read that?

04:39:11

6 THE COURT: Can you make it bigger?

7 BY MR. BABBITT:

8 Q. The sentence beginning, "For these reasons, based on my  
9 analysis of the scholarly literature, it is my opinion that the  
10 changes to Arizona's voter registration laws will impose a  
11 significant burden on voting in the state and prevent some  
12 eligible voters from participating in elections"?

04:39:30

13 A. Okay.

14 Q. And you disagree with that; correct?

15 A. Yes.

04:39:51

16 Q. And in contrast, you conclude at the end of your report  
17 over on the right, "For these reasons, based on my analysis of  
18 the evidence presented in Professor Burch's report as well as  
19 the evidence presented here, I believe that H.B. 2243 and H.B.  
20 2492 will not reduce voter turnout by Arizona citizens.  
21 Rather, I believe these laws will most likely have no effect on  
22 voting by Arizona citizens, and may increase it."

04:40:11

23 And you continue to stand by that opinion; correct?

24 A. Yes.

25 Q. So let's focus on your report. When you say that you

04:40:28

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 believe these laws will have no effect, you mean no net effect  
2 on voting; correct?

04:40:34

3 A. No net effect on -- I'm basing this on the studies. And,  
4 again, as we've talked about in the deposition, these studies  
5 are using different baseline groups and so -- and mostly those  
6 studies are finding zeros and in some cases they are finding  
7 positives and that's what I'm basing it on.

04:40:53

8 So those studies are all looking at different  
9 populations?

10 Q. You remember we discussed this in your deposition two  
11 weeks ago; correct?

04:41:06

12 A. Yes.

13 MR. BABBITT: Stephen, if we could pull up page 246,  
14 beginning at lines 23 of Professor Hoekstra's deposition.

15 BY MR. BABBITT:

04:41:23

16 Q. And I asked you: "What do you mean by 'no effect'?"

17 And you said: "Zero effect."

18 And I asked you: "Meaning that you don't believe  
19 these laws will affect the ability of a single Arizona citizen  
20 to vote?"

04:41:36

21 And you gave what I refer to as -- or I think of as a  
22 version of no. You said, "It is possible that some people  
23 would have -- would be less likely to vote and some people  
24 more."

25 A. Hold on. What line are on?

04:41:49

MARK HOEKSTRA, PH.D. - Cross

1 Q. Six, seven. I'll let you read this.

04:41:52

2 A. I just want to read along as you're reading it. Okay.

3 That's right.

4 Q. "These studies are all looking at the net impact of these  
5 things. That's what I'm referring to. I believe the net  
6 effect is likely to be zero."

04:42:08

7 That's your opinion in this case, correct, the net  
8 effect?

9 A. The net effective assistance of counsel although the  
10 interpretation of that is different in different studies  
11 because they are looking at different populations.

04:42:19

12 Q. But in this case your opinion is not that there will be no  
13 voters who are adversely affected. Your opinion is that on net  
14 any number of adversely affected voters will be  
15 counter-balanced by voters who come into the system; correct?

04:42:35

16 That's what -- that's what you mean by net effect; right?

17 A. I believe that's right.

18 Q. Hypothetically, just to take it out of the context of this  
19 case but if we had a thousand left-handed people who were  
20 excluded from voting but a thousand right-handed people, new  
21 voters, came in and fill the voids, there would be no net  
22 effect on turnout?

04:42:56

23 A. That's right although -- I mean in that hypothetical, for  
24 the real world, presumably if there are policies that impacted  
25 handedness, people would look at subgroups by handedness and

04:43:14

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 they would identify effects. And people have done that here. 04:43:20

2 If you think that Black people are more likely to be affected  
3 or Hispanics, they focus on those subgroups.

4 Q. Okay. But just in terms -- I want to be clear on the  
5 point of net effect. We can take it out of left-handed and 04:43:31  
6 right-handed. If all of the Hoekstras were excluded but all  
7 the Babbitts were brought in and there were more Babbitts than  
8 Hoekstras, that would be positive; right? That's what we mean  
9 by net.

10 A. Yes. Although, again, it's possible for a study to have 04:43:44  
11 looked at let's look only at the impact of voting on Babbitts  
12 and let's look only at the impact of voting by Hoekstras and  
13 that's more or less what these studies have done. They don't  
14 do it by name but they are doing it by racial group, they are  
15 doing it by political party and other things and they are 04:43:59  
16 generally finding zeros and some positives.

17 Q. Okay. And so having surveyed all of that, your conclusion  
18 is that there is most likely to be no net effect on voting in  
19 Arizona?

20 A. For the relevant subgroups that have been studied, yes. 04:44:12

21 THE COURT: So to be more specific, is it your  
22 opinion that on naturalized citizens, the net effect would be  
23 zero, but some might be less likely, but some may be more  
24 likely and so it's a subgroup issue as opposed all of the  
25 voters? 04:44:35

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 THE WITNESS: Yeah. I think -- I think that's right. 04:44:35  
2 So if you look at it -- if you were to do the study and, you  
3 know, if you made this really easy on us, we could randomize or  
4 something and we would know for sure what answer was. But I  
5 think that's right. Like you look at the Biggers and Smith 04:44:47  
6 thing and you say, well, there's some evidence that these  
7 people who get targeted are more likely to vote. Is it  
8 possible, you know, is it possible that there's something the  
9 other way. Like maybe. But there's not much evidence on that  
10 out there. Most of this stuff is either zeros or it's 04:45:02  
11 positives.

12 MR. BABBITT: Okay.

13 BY MR. BABBITT:

14 Q. Okay. And when you say in your opinion here that you  
15 think it is most likely these laws will have no net effect or 04:45:11  
16 may increase voting, you're not assigning any particular  
17 probability. You just mean -- by most likely, you just mean  
18 more than 50 percent?

19 A. Yeah, I believe that's fair. I believe if I put a  
20 probability on it, it would be with some false degree of 04:45:27  
21 certainty because obviously we don't know the probabilities.

22 Q. And you didn't conduct any sort of quantitative analysis  
23 that would allow you to say whether it's 50.1, closer to 100,  
24 nothing like that?

25 A. I did not. 04:45:41

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 Q. Okay. And when you say that the laws may increase voting, 04:45:42  
2 do you mean that the laws themselves may increase voting by  
3 citizens in Arizona or do you mean that these other effects,  
4 like the mobilization by civic organizations, like the voter  
5 outreach by political campaigns, that that is what will need to 04:46:00  
6 increase the voting?

7 A. It will be the laws in those things and potentially those  
8 things that come along with the laws. And so if of those  
9 things could be the outreach stuff that you mentioned. But it  
10 need not. I mean, it could be just the fact that we passed 04:46:16  
11 this law and I feel like you're trying to suppress votes and it  
12 makes me mad and I'm more likely to vote; or we passed these  
13 laws and now I feel better about elections because you're  
14 actually trying to do something about what I think is a problem  
15 and now I'm more likely to vote. Those things don't involve 04:46:30  
16 outreach but potentially it would include the effects of the  
17 outreach that come as a direct impact of this.

18 Q. And I think when you were asked about this by  
19 Mr. Langhofer this morning, you said something like these  
20 things come with lots of things. And the studies are going to 04:46:46  
21 pick up the net effect of these laws and everything that comes  
22 with them. It's that other stuff that you're talking about  
23 there?

24 A. That's right. And, you know, the best they are going to  
25 do -- and I think the Pons paper is people on this where they 04:47:00

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 say, yeah, we've got this increase in voting by Hispanics and  
2 we've got some evidence of maybe additional outreach and could  
3 that explain part of it? Maybe. But it's hard to know for  
4 sure because you don't know if they are the same people even.

5 So they are appropriately cautious when they try to  
6 tease out what is that mechanism for why voting went up.

7 Q. And you're not offering an opinion to the effect that  
8 these laws have already had a positive impact on registration  
9 or turnout; correct?

10 A. That's correct. I haven't done the study and to my  
11 knowledge, none of the experts have either so I haven't  
12 responded to anything like that.

13 Q. And you're not offering an opinion on when we might expect  
14 that positive uptick to occur; right?

15 A. I'm offering up these studies. We could certainly look at  
16 those one by one and look at the timing of when did the effect  
17 show up and that would be the best evidence of what we would  
18 expect when it comes to the timing.

19 Q. But your report in this case does not offer a prediction  
20 about when we might expect to see this uptick; correct? That  
21 is the question I'm asking.

22 A. I'm not explicitly mentioning that. I'm citing the  
23 papers. In those papers they obviously talk about what's their  
24 sample and where are the effects and so on.

25 Q. But you're not doing that here; correct?

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 A. I'm citing the papers.

04:48:20

2 Q. But not offering an opinion on when?

3 A. I'm citing the papers which, if you read the papers, you  
4 can see when they found effects.

5 Q. The papers aren't coming into evidence. So the question  
6 is, you're not offering an opinion on when; correct?

04:48:31

7 A. Yeah. I would have to -- I mean -- I have not so far  
8 offered an opinion on when. If I were to think about the  
9 timing of these papers, I could try to come up with an answer.  
10 It would take me a minute to do that.

04:48:56

11 Q. And you haven't quantified any potential increase;  
12 correct?

13 A. When you say -- I haven't studied the actual impact of the  
14 laws so I haven't quantified that. Is that what you're asking  
15 me?

04:49:11

16 Q. Yes.

17 A. Are you asking me about did I quantify a prediction or  
18 something?

19 Q. You're not offering a quantified judgment or opinion here  
20 that says I would expect, as an economist, to see an uptick in  
21 voting by 10,000 voters. There's nothing to that effect in  
22 your reports; correct?

04:49:18

23 A. That is correct. Again, in my report I'm talking about  
24 the magnitudes that we see elsewhere which I think are  
25 informative of what you might expect to see here and most of

04:49:33

MARK HOEKSTRA, PH.D. - Cross

1 those are in the range of -- you know, the positives are in the 04:49:36  
2 range of one, two, three, percentage points.

3 But I'm not going to claim to know exactly what is  
4 the right weighted average of those estimates to apply in this  
5 situation. 04:49:47

6 Q. And beyond the studies that you reviewed, the academic  
7 articles, you didn't conduct any empirical analysis specific to  
8 this case; correct?

9 A. So I certainly look at the naturalized voters versus the  
10 born citizens. I don't know if that qualifies as, you know, an 04:50:10  
11 analysis in your question but I've done that for this case.

12 Q. So can we go back to your deposition transcript.

13 MR. BABBITT: Stephen, see if we can pull up page  
14 250, lines 15 through 20.

15 BY MR. BABBITT: 04:50:29

16 Q. So I asked: "Just to be super clear here, you didn't  
17 conduct any empirical analysis specific to this case to support  
18 the opinion you're offering in the final two sentences of your  
19 report; correct?"

20 A. Okay. So that's a different question than what you just 04:50:40  
21 asked me now.

22 Q. How?

23 A. My answer there is -- I mean, is correct.

24 Q. So you did not conduct a separate empirical analysis  
25 specific to this case to support the conclusions in the last 04:50:51

MARK HOEKSTRA, PH.D. - Cross

1 two sentences of your opinion correct?

04:50:54

2 A. That's correct.

3 Q. Did you conduct any surveys specific to this case?

4 A. I did not.

5 Q. Did you conduct any interviews specific to this case?

04:51:02

6 A. I did not.

7 Q. Did you speak to any Arizona voters in connection with  
8 this case aside from counsel?

9 A. I did not.

10 Q. Did you speak with any Arizona officials in connection  
11 with this case?

04:51:11

12 A. No.

13 Q. Did you contact anybody at the Arizona Department of Vital  
14 Records in connection with this case?

15 A. No.

04:51:23

16 Q. Did you review the Arizona Election Procedures Manual  
17 before drafting your report?

18 A. I was asked that before and my answer was no.

19 Q. Okay.

20 So let's go to your prior work on voting and we had  
21 talked about the economics letters piece that Mr. Dodge asked  
22 you about. That article was also published or rather the  
23 research underlying it was also published by the Cato  
24 Institute; is that correct?

04:51:38

25 A. Yeah. They put out a brief summary of that article as

04:51:55

United States District Court

MARK HOEKSTRA, PH.D. - Cross

1 well. That's right.

04:51:59

2 Q. And when you say they put it out, I mean, it's under your  
3 name and you signed off on it correct?

4 A. That's correct. Yeah.

5 MR. BABBITT: Stephen, if we could pull up Exhibit PX 04:52:07  
6 548 and go to page one.

7 BY MR. BABBITT:

8 Q. Professor Hoekstra, this is that article; correct?

9 A. That's correct.

10 Q. And you signed off on this summary before it was 04:52:17  
11 published.

12 A. That's correct.

13 Q. I would like to turn to page two of this, the right-hand  
14 column.

15 MR. BABBITT: And I'll ask Stephen to highlight the 04:52:26  
16 sentence beginning "A national survey." It's halfway down the  
17 paragraph on the right. There you go.

18 BY MR. BABBITT:

19 Q. And you state -- this is a February 2020 analysis that you  
20 published; correct? 04:52:45

21 A. If you say so, I'll take your word for it.

22 Q. Shall we go back to the prior page?

23 A. No. I'm not worried about it.

24 Q. And you state here, "A national survey reports that nearly  
25 7 percent of U.S. citizens did not have ready access to 04:52:56

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1 documents providing proof of citizenship and that as many as 11 04:53:01  
2 percent of citizens lacked government-issued photo  
3 identification."

4 Did I read that correctly?

5 A. Yes. 04:53:10

6 Q. And you're not questioning those figures for the purposes  
7 of your opinion in this case; correct?

8 A. I'm not attempting to assess whether those figures were  
9 right or wrong. I'm just simply reporting there was a survey.  
10 This is what they reported to find. 04:53:22

11 Q. But you had enough confidence in these figures in 2020 to  
12 allow the Cato Institute to put out this publication over your  
13 name; correct?

14 A. I'm not -- that survey is not attributable to me. I'm  
15 pointing out there was a survey that reported to find 04:53:37  
16 something. That's it. I'm not vouching for it.

17 Q. Do you typically cite sources that you're not prepared to  
18 vouch for?

19 A. Sure. I mean, I'm not citing it in support of what I'm  
20 finding. I'm citing a number. There's a number out there. 04:53:49  
21 They are claiming this. Do people cite papers where you might  
22 disagree with the paper? Of course. All the time.

23 Q. Okay. But you have no reason -- did you have any reason  
24 to doubt had figure at the time?

25 A. I didn't look into it one way or the other. I didn't 04:54:05

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1 attempt to -- I didn't attempt to validate the survey one way  
2 or the other.

04:54:07

3 Q. You just threw it into your paper?

4 A. I cited it in my paper.

5 Q. All right. But you're not walking away from those figures  
6 now. Let me ask a more precise question.

04:54:16

7 Do you have any reason to believe that these numbers  
8 would not apply in Arizona in 2023?

9 A. I don't know one way or the other. And from this I don't  
10 remember what survey it was.

04:54:32

11 Q. But you're not offering an opinion that it's incorrect,  
12 these figures are incorrect?

13 A. I never attempted to assess the validity of this survey or  
14 vouch for the survey or criticize the survey. I simply  
15 reported what the survey reported to find.

04:54:48

16 Q. Okay. Which is that 7 percent of U.S. citizens did not  
17 have ready access to documentary proof of citizenship.

18 Let's move on to the Medicaid literature.

19 MR. BABBITT: Your Honor, I appreciate we're running  
20 up against the clock. This is a new topic. I'm happy to keep  
21 going or stop here and pick up in the morning.

04:55:07

22 THE COURT: I'm happy to stop here and pick up in the  
23 morning.

24 MR. BABBITT: Okay.

25 THE COURT: You can step down, sir.

04:55:17

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MARK HOEKSTRA, PH.D. - Cross

1 You really want to go on? 04:55:20

2 THE WITNESS: I wanted to finish. I was hoping to go  
3 home morning. I have a ticket tomorrow morning.

4 THE COURT: Well, the thing is that I'm just guessing  
5 Mr. Langhofer also has a few questions and so either way we did 04:55:30  
6 it, we have to pick up in the morning because there's more than  
7 five minutes left.

8 Unless there's something that can't wait until 9  
9 o'clock tomorrow morning. Nobody seems to be offering  
10 anything. 04:55:48

11 We'll recess until tomorrow morning at 9 a.m.

12 COURTROOM DEPUTY: All rise.

13 (Whereupon, these proceedings recessed at 4:55 p.m.)

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C E R T I F I C A T E

I, ELAINE M. CROPPER, do hereby certify that I am  
duly appointed and qualified to act as Official Court Reporter  
for the United States District Court for the District of  
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute  
a full, true, and accurate transcript of all of that portion of  
the proceedings contained herein, had in the above-entitled  
cause on the date specified therein, and that said transcript  
was prepared under my direction and control, and to the best of  
my ability.

DATED at Phoenix, Arizona, this 16th day of November,  
2023.

s/Elaine M. Cropper

Elaine M. Cropper, RDR, CRR, CCP

United States District Court